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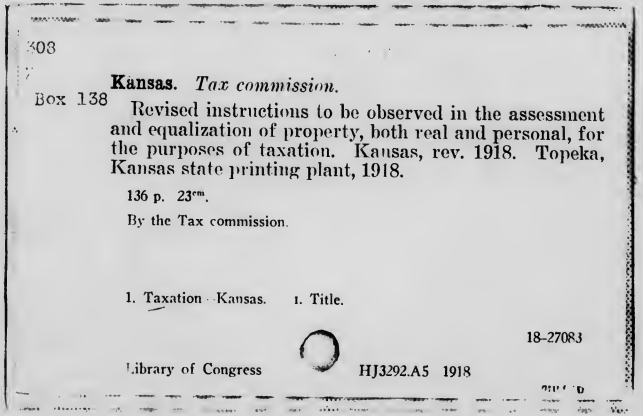
Kansas Tax Commission

Revised instructions to be observed in the...

Topeka

1918



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REVISED

INSTRUCTIONS TO BE OBSERVED

IN THE

ASSESSMENT AND EQUALIZATION OF PROPERTY, BOTH REAL AND PERSONAL, FOR THE PURPOSES OF TAXATION

KANSAS

Revised 1918

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TABLE OF CONTENTS.

Part		page
I.	Statutes	4
II.	Revised rules and instructions, 1918	6
III.	Exemptions	8
IV.	Debits and credits	17
V.	Place of taxation	19
VI.	To whom is property assessable	28
VII.	Contracts for the sale of real estate	31
VIII.	Assessment of the property of corporations	34
IX.	Assessment and other forms or blanks	53
X.	General rules to be observed in assessment	83
XI.	Rules for valuing property	93
XII.	Duties of county assessor	95
XIII.	Duties of deputy assessor	109
XIV.	Equalization of assessments	110
XV.	Assessment of omitted property	115
XVI.	Statutory penalties	119
XVII.	Assessment of automobiles	124
XVIII.	The fiscal year of political sub-divisions	126

THE TAX COMMISSION.

SAM'L T. HOWE, *Chairman.*
HAYS B. WHITE.
JASPER T. KINCAID.

CLARENCE SMITH, *Secretary.*

REVISED RULES AND INSTRUCTIONS, 1918.

In discharging the duties imposed by the sections and parts of sections of the law hereinafter quoted, the Tax Commission has been at all times in close communication with local officers charged with duties under the law, and almost daily has been called upon to answer numerous questions which required an interpretation of statutes where the same had not been passed upon by the courts, and has been required to announce rules to govern local officers in the performance of their work.

The instructions to assessors previously published have been largely in the form of questions asked by assessors and the answers given thereto; but in this revision of the rules and instructions questions have been eliminated and statements are made as if original, when in fact they are largely statements made in response to questions heretofore asked. An endeavor has been made to segregate the matter and to state the same under proper heads, and it is believed that the rearrangement is a decided improvement upon the discarded method.

In some instances it may appear that a particular proposition is discussed under different heads, and occasionally will be noted a repetition of something that has been said under other heads, but these repetitions will only emphasize the method of treating the particular question.

I.

STATUTES.

The most important requirements of the law of assessment and taxation in relation to the supervisory and the directory powers which the Tax Commission is given over the local administrators of the law are contained in the following quotations:

"The Tax Commission shall have general supervision and direction of the county assessors in the performance of their duties, and shall regulate and supervise the due performance thereof. . . ."

(A part of Sec. 11295, G. S. 1915.)

"To have and exercise general supervision over the administration of the assessment and tax laws of the state, over the township and city assessors, boards of county commissioners, county boards of equalization, and all other boards of levy and assessment, to the end that all assessments of property, real, personal, and mixed, be made relatively just and uniform and at its true and full cash market value; to require all township and city assessors, county commissioners and county boards of equalization, under penalty of forfeiture and removal from office as such assessors or boards, to assess all property of every kind and character at its actual and full cash market value."

(First subdivision of Sec. 11299, G. S. 1915.)

"To confer with, advise and direct assessors, boards of commissioners, boards of equalization and others obligated under the law to make levies and assessments, as to their duties under the statutes of the state."

(Second subdivision of Sec. 11299, G. S. 1915.)

"To require township, city, county, state or other public officers to report information as to the assessment of property, collection of taxes, receipts from licenses and other sources, the expenditure of public funds for all purposes, and such other information as may be needful or desirable in the work of the Commission, in such form and upon such blanks as the Commission may prescribe. . . ."

(A part of the subdivision five of Sec. 11299, G. S. 1915.)

"To investigate the work and methods of local assessors, boards of county commissioners and county boards of equalization in the assessment, equalization and taxation of all kinds of property, by visiting the counties of the state."

(Ninth subdivision of Sec. 11299, G. S. 1915.)

"To require any county board of equalization, at any time after its adjournment, to reconvene and to make such orders as the Tax Commission shall determine are just and necessary, and to direct and order such county boards of equalization to raise or lower the valuation of the property, real or personal, in any township or city, and to raise or lower the valuation of the property of any person, company or corporation; and to order and direct any county board of equalization to raise or lower the valuation of any class or classes of property; *and generally to do and perform any act or to make any order or direction to any county board of equalization or any local assessor as to the valuation of any property or any class of property in any township, city or county which in the judgment of said Tax Commission, may seem just and necessary, to the end that all property shall be valued and assessed in the same manner and to the same extent as any and all other property, real or personal, required to be listed for taxation."*

(Sixteenth subdivision of Sec. 11299, G. S. 1915.)

"Any county assessor or deputy, member of the Tax Commission, or member of any county board of equalization, and every other person whose duty it is to list, value, assess or equalize real estate or personal property for taxation, who shall knowingly or willfully fail to list or return for assessment or valuation any real estate or personal property, or who shall knowingly or willfully list or return for assessment or valuation any real estate or personal property at other than its true value in money, or who shall willfully or knowingly fail to equalize any real estate or personal property at its true value in money, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars or imprisonment in the county jail for a period not exceeding ninty days, and in addition thereto shall forfeit his office, if an officer mentioned herein.

(Sec. 11325, G. S. 1915.)

If any officer charged by the statutes with any duty in relation to assessment and taxation, or who under the statutes may be required by other officers to perform certain duties, shall willfully fail or neglect to perform any of such duties when required to do so by the statute in terms or by any person thereunto authorized by the statute, and shall continue to so fail or neglect to perform such duties after having been notified of the default by the authority or authorites thereunto authorized, such officer so continuing in default shall forfeit a sum not less than fifty dollars nor more than five hundred dollars, to be recovered in an action brought in the name of the state by the county attorney, or by the attorney-general upon request of the Tax Commission, in the district court of the county of such officer, and may be removed from office at the discretion of the court. All moneys recovered under the provisions of this act shall be paid into the county treasury for the benefit of the county school fund."

(Sec. 11505, G. S. 1915.)

II.

REVISED RULES AND INSTRUCTIONS, 1918.

PROPERTY SUBJECT TO TAXATION.

Section 11149, General Statutes of 1915, reads as follows:

"That all property in this state, real and personal, not expressly exempt therefrom, shall be subject to taxation in the manner prescribed by this act."

Section 11150, General Statutes of 1915, defines property as follows:

". . . the term 'property' when used alone in this act, shall mean and include every kind of property subject to ownership."

It is impracticable to have the very large number of different kinds of property itemized upon the personal-property statement and the assessment roll, and recognizing the inexpediency of such detail, the legislature has not provided in terms for the full listing of the multifarious properties, and whether or not property is subject to taxation which is not in terms listable under some provision of law became a question and was passed upon by the supreme court of Kansas in the case of *The State v. Holcomb*, reported in 81 Kansas, at page 879, *et seq.*

The question at issue in the case was as to whether or not manufactured products on hand on March 1 of any given year were assessable to the manufacturer. The law provides for the listing of the average quantity of raw material used in the production of the different kinds of manufactured commodities, but nowhere requires in terms that the product of the manufacturer which is undisposed of on March 1 shall be listed. In its decision of the case the court said, among other things:

"Now, we have a provision enumerating the articles and classes of property that are exempt, and the finished product of manufacturers is not among those named. It is contended that the statute providing that all property not expressly exempt shall be subject to taxation is qualified by the added clause, 'in the manner prescribed by this act.' The argument is that this clause in effect limits taxation to the kinds of property

specially named in the act; that the finished product can not be taxed until it is named as one of the subjects of taxation, and that up to this time the legislature has omitted to make provision for taxing it. It has provided a method for taxing the raw material which the manufacturer has on hand, and since the manufactured product was not included in this provision it is argued that the legislature did not intend that it should be taxed. The clause referred to relates to the method of imposing taxes upon property already declared to be subject to taxation. It is not a limitation on the declaration that all property not expressly exempted shall be subject to taxation. It deals with methods, not subjects, of taxation. . . .

"As to manufacturers, it is provided that when they list their property for taxation they shall also return the average amount of material purchased or held to be used in manufacturing, refining, or combining which they have had on hand during the preceding year. . . . Another section specially provides that they shall list the value of engines, tools, and machinery which form no part of the real estate. The fact that the legislature prescribes a special manner for taxing the raw material held for manufacturing purposes does not mean that other tangible property of the owner shall escape taxation. Except as limited by the constitution, the whole matter of taxation is within the discretion and power of the legislature. It may choose its own methods of assessment, and different ones for different classes of property. It may give specific directions as to the manner in which officers shall determine valuations, but the absence of such directions as to a class of property does not argue that such property is not taxable under a general provision. The section providing a method for assessing raw material proceeds on the theory that the manufacturer shall list his other property. The fact that a manner of valuing one kind is prescribed does not warrant the inference that another kind of property shall be exempt from taxation. The provision that all property shall be taxed unless expressly exempted precludes the making of a mere implied exemption. . . . The property, not having been expressly exempted, must be listed and valued the same as other tangible property for which a special method has been prescribed."

If the local officers who have to do with assessment and taxation will carefully read what is above set forth they will see that all property of every kind and nature is to be returned by its owner for taxation if it was within the jurisdiction of the state of Kansas on the 1st day of March; the only exception being particular kinds of property which the constitution or the statutes expressly exempt.

NOTE.—What was said by the court with reference to the liability to assessment of the finished product of a manufacturer on hand on March 1 is not now controlling because the legislature of 1917 amended the law so as to require the assessment of the average finished product on hand during the year preceding March 1. (See sec. 2, chap. 320, Laws 1917. This section is the same as section 11234, Tax Commission compilation of Laws 1917.)

III.

EXEMPTIONS.

Supreme court decision.

All property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes is exempted from taxation by the constitution. The test of exemption is use and not quantity. The legislature may not restrict or limit the exemption to *quantity* because the constitution makes *use* the test.
(85 Kan. Supreme Court Reports, page 249.)

Mutual benefit association. (Court decision.)

The property of an association conducted for the mutual benefit of its members and to provide a fund by contribution from members for the payment of a special amount to a beneficiary named by the contributing member is not a benevolent association and its property is not exempt from taxation.
(63 Kan. 799.)

Invested fund. (Court decision.)

The fund of a charitable or benevolent association invested for income purposes is not exempt from taxation.
(63 Kan. 808.)

Ownership not the test of exemption. (Court decision.)

Exclusive use for the purpose which will exempt property from taxation is controlling; ownership is no cause of exemption; and so property owned by a literary, an educational, a scientific, religious, benevolent and charitable association or institution which is not improved and used for an excepted purpose is not exempt from taxation, and this although the same may have been acquired for future use as a home or otherwise by the institution.
(8 Kan. 344.)

Indirect use. (Court decision.)

An indirect use of property through the medium of money raised by a sale of products of the land is not such as entitles the property to be exempted.
(10 Kan. 442.)

Masonic Grand Lodge property not exempt. (Court decision.)

The office building owned by the Grand Lodge of Masons is not used "directly, immediately and exclusively in dispensing charity" and is not exempt.
(81 Kan. 799.)

Odd Fellows Lodge property not exempt. (Court decision.)

An Odd Fellows Lodge is not a benevolent or charitable institution in the sense that it is entitled to have its property exempted from taxation.
(81 Kan. 894.)

Charitable homes in general. (Court decision.)

If property is used exclusively for benevolent or charitable purposes it is exempt, regardless of the value or area of the property, and it is not requisite that the charity dispensed be purely public, or even public. If the property be exclusively used for charitable purposes, the exemption is not defeated, although only the members of certain societies and their relatives are eligible to become recipients of the charity dispensed.
(81 Kan. 859, Syllabus 2.)

Fraternal beneficiary association property. (Court decision.)

Real estate obtained by an appropriation made by a fraternal beneficiary association for a home office building, occupied and intended to be permanently used for that purpose, is not exempt from taxation.
(86 Kan. 290, Syllabus.)

Property used as a literary hall and dormitory. (Court decision.)

A building erected upon ground owned by a college society, the building having been purchased with funds obtained by

a mortgage upon the property in part and in part from subscriptions of members of the society and partly by donations of funds, is exempt from taxation so long as the property is used exclusively as a literary hall and dormitory and is not leased or otherwise used with a view of profit.
(92 Kan. 1020.)

Termination of use for excepted purposes. (Court decision.)

A property which is exempted from taxation by reason of use for a constitutionally excepted purpose ceases to be exempt when the use ceases upon which the exemption has been allowed.
(12 Kan. 114.)

Animals less than 6 months of age.

The effect of section 11161, General Statutes of 1915, in so far as it relates to the listing of animals for taxation, operates to exempt all animals named in the section that are six months old or under.

Reserve or emergency funds of fraternal societies.

The reserve or emergency funds of fraternal societies are exempt from taxation by reason of a statute. A permanently invested fund is not exempt for it has then ceased to be a reserve or emergency fund.

G. A. R. property.

Personal or real property belonging to a post of the Grand Army of the Republic is exempt by virtue of a special statute.

Personal property belonging to a college.

Cows, horses, hogs and other animals which are the property of a college are subject to taxation.

Personal property exemption to family.

The exemption of $200 which the constitution gives to the family is to be allowed to any members of the original family living in such a way as to maintain family relations. The exemption is to the family, and so long as there is a survivor of the family the exemption is to be allowed. Circumstances will indicate who should be the beneficiary of the exemption. Families are gradually dissolved; members thereof create families of their own and thereby raise new exemptions. When a family has once become entitled to the exemption the right thereto exists so long as any member of the *original family* is left. At times there will be perplexing questions to settle, but this is true of every proposition connected with assessment and taxation, and questions which are intricate must be settled upon lines of common sense and good judgment.

Concretely stated, if a widower be all that is left of the original family he is entitled to the exemption, even though he be living with a son who has a family of his own. The idea of the *family* must always be kept in mind. If the father and mother be both dead, and before their death some of the children left and severed the family relations and set up families of their own, they are not to be considered as a part of the original family; on the other hand, any of the children living under conditions or circumstances which would indicate that in all fairness they should be considered as part of the original family, because of the maintenance of family relations, should participate in the exemption.

As the exemption is to the family, it follows that the $200 may be divided among the members of the family, if need be, in order to give the full benefit. Ordinarily it will be most expedient to give it to one of the family, usually its head. For example, if two children live together under conditions which entitle them to the exemption, the $200 should be divided between them according to their relative ownership of property. There must be inquiry as to the cause of the separation of the units of the family, and usually it will be the ones who leave the paternal home and go out into the world that are to be denied participation in the exemption.

Lodge funds.

All lodge moneys are taxable except "reserve" or "emergency" funds. Funds at interest, as indicated above, can not be reserve or emergency funds, and consequently are subject to taxation.

Lodge building bonds.

Sometimes a lodge undertakes the erection of a building for its own occupation, and organizes a corporation and issues stock for the purpose of obtaining the funds wherewith to build. If the corporation organized be domestic, the capital stock of the association is to be returned by the proper officer for taxation and the owners of shares of stock are not required to list them. Should the association issue bonds secured by mortgage upon the building, such bonds would be listable for taxation if owned by citizens of Kansas.

Homestead improvements.

The personal property of a homestead occupant is not exempt from taxation, although the improvements erected upon the tract of land homesteaded are not taxable.

Surrender value of life insurance policy.

The cash surrender value of a life insurance policy is not such a demand for money as causes it to be listable for taxation as the property of the insured.

Policy loan.

If money be borrowed on an old-line life insurance policy, the policy being assigned as collateral, the obligation in the hands of its holder is subject to taxation if owned on March 1.

Evidence of municipal indebtedness.

Bonds, warrants and all other evidences of indebtedness of the state or of the cities, counties, townships or school districts are in effect exempted from taxation because of the statute which provides that the owners thereof shall not be required to list them with the deputy assessor.

Cemetery exemption.

Only such lands or lots as are "used exclusively as graveyards" are exempted from taxation. Land owned either by individuals, a corporation or an association, and used for other purposes, is not exempt nor is any other property owned by such interests exempt.

Parsonage.

A parsonage or dwelling belonging to a church society is exempt so long as it is occupied as a residence by the pastor, but when used for any other purpose or rented for profit it ceases to be exempt. One society cannot have two such properties exempted. An attempt made to have exempted from taxation, as the residence of a pastor, certain real estate with the buildings thereon, occupied by an Episcopal bishop as a residence, failed. The supreme court in the case of *Griswold v. Quinn*, reported in 97th Kansas, at page 611, decided adversely to the contention, and the syllabus of the case reads as follows:

"Where a bishop of the Episcopal church has jurisdiction and charge of all churches within his district, but is not the stated pastor of any local church, his residence is not exempt from taxation on the ground that 'it is occupied by the pastor of a church or church society.'"

Fraternal insurance. (Court decision.)

Moneys paid by an insurance company to the beneficiary named in either a policy of insurance or a fraternal beneficiary certificate are exempt from taxation while deposited in a bank. (65 Kan. 31.) The court held that the proceeds of insurance as indicated are not subject to garnishment, and by analogy the same rule must be observed as to taxation.

The rule ceases to control when the proceeds on deposit in bank have been converted into other forms of property, which property is not itself exempt by virtue of some provisions of the exemption statutes.

Exempt assets of banks not to be deducted from assessment of bank shares of stock.

Property held among the assets of a bank, which is exempt from taxation, such as federal, state or municipal bonds of the state, can not be deducted from the assessment of the shares of stock.

Judgments, tax sale certificates and other intangibles owned by nonresidents.

If a nonresident of the state has obtained a judgment in the courts of Kansas, the same is not subject to the Kansas tax law; neither is a foreign-owned tax-sale certificate, and the same is true as to any other foreign-owned intangible property. However, this rule might be changed by property acquiring a "business situs" in the state, as has been outlined in chapter V hereof.

Property brought into state between March 1 and September 1 by residents.

Under the provisions of sections 11168, 11169 and 11170, General Statutes of 1915, personal property brought into the state between the 1st day of March and the 1st day of September following is immediately subject to assessment, except as follows:

When a resident taxpayer has made return to the deputy assessor as of the first day of March of all property owned by him on that day he can not afterward be compelled to list for assessment property which he has brought into the state purchased with money borrowed, whether unsecured, or secured by mortgages given upon his other property which was taxed, whether the mortgages are real or chattel.

When a resident taxpayer has listed with the assessor all property which he owned on the first day of March, including money which he afterward invests in property outside the state, and brings such property into the state after the first day of March, he cannot be compelled to list the property for taxation.

Property brought into the state between March 1 and September 1 owned by nonresidents.

The matter of the assessment of property belonging to nonresidents of the state and brought into the state between March 1 and September 1 was litigated in the case of *Mosby v. The Board of County Commissioners et al.*, the suit having been brought in the district court of the county of Greenwood and appealed to the supreme court.

The case is reported in 98 Kansas, at pages 594, *et seq.* The property, the assessment of which was in question in

the case, were animals owned by Mosby; were brought into Kansas about May 1, 1914, and for grazing purposes were moved to a ranch owned by Mosby in Greenwood county. About March 1, 1914, the officers of Oklahoma levied a tax upon the animals, which tax was paid later in the year. Shortly after the animals were moved to Greenwood county the assessor of that county placed them on the tax roll and a tax of $112.34 was levied against them.

The suit was brought to avoid the taxation of the animals in Kansas for the reason that they had been previously assessed and taxed for the same year in Oklahoma.

In construing sections 11168 and 11170, which constitute the law of the case, the court held that under the provisions of the sections the animals were deemed to have acquired an actual situs in Kansas and were subject to taxation.

In its opinion the court said that "the section referred to has been interpreted to mean that the property of residents brought into the state after March 1 and before September 1, which has been taxed elsewhere for that year, is not subject to taxation here, but that the property of nonresidents brought into the state during the period is subject to taxation. In the case of a resident the theory is that all of his money and property will be regularly listed and assessed and that his obligation to the state will be fully discharged, while the nonresident who brings his property here after March 1 and takes it out before the next assessment will contribute nothing to the public for the protection afforded him."

Further along the court also said: "The money or assets which the resident invests in or exchanges for cattle or other property after the listing time is assessed as it existed on March 1, while the plaintiff residing out of its jurisdiction whose cattle had been taxed under this provision has not been assessed here for either the money or the assets invested in the cattle, and if the cattle were not assessed would escape taxation entirely. The taxes were imposed on visible tangible property which has a situs in the state, and the rule is that it may be taxed where it has a situs regardless of the domicile of the owner."

And the court said further: "Nor can the required contribution be regarded as double taxation in any legal sense.

Each state is sovereign and independent and has authority to impose a tax on all property within its jurisdiction. It does not lose its power because property brought into the state may have been subjected to taxation in the state from which it was brought for the same period. It cannot be regarded as double taxation unless it is twice taxed in the same jurisdiction."

The language of the court speaks for itself, and means simply that animals of nonresidents which are brought into the state between March 1 and September 1 for grazing purposes have a taxable situs in the state and are subject to assessment and taxation under the law of Kansas, notwithstanding the fact that the same property may have been taxed for the same year in the state whence they were brought.

Assessors should be diligent in endeavoring to discover all property in their respective jurisdictions which comes within the statute as interpreted by the court.

IV.

DEBITS AND CREDITS.

Credits may be offset by debits.

Bona fide indebtedness may be deducted by the taxpayer from the aggregate of the credits which he lists with the deputy assessor. It makes no difference what the form of indebtedness is, whether a book account, nonnegotiable unsecured note, a note secured by chattel mortgage or one secured by a real-estate mortgage, the deputy assessor must give the taxpayer permission to deduct the same from the aggregate value of the taxpayer's credits.

Any demand for money or other valuable thing owned by a taxpayer is a credit which may be offset by debits, except that credits do not include obligations which are secured by a lien on real estate, no matter what may be its character, whether it be a mortgage, a mechanic's lien, a sheriff's certificate of purchase, or other form of obligation which is a lien upon land. Any such property owned by a taxpayer can not be offset by debits.

No other personal property of any kind or character may be reduced upon the personal property statement and assessment roll because of indebtedness; in other words, debts cannot be offset against property of any kind except credits.

The following illustrates the method of treating real-estate obligations: If a taxpayer have, on March 1, $10,000 in real-estate mortgages, or real-estate contracts or mechanic's liens, he must list them for taxation; and although he may be indebted to an equal amount, he cannot offset his indebtedness; but if he owe an obligation which is secured in some form by a lien upon his real estate, whether by mortgage, mechanic's lien or contract, he may offset the debt against credits owned by him to an equal amount if he have that much in credits. However, if he have only $5,000 in credits he can offset only $5,000 of his debts.

It should not be forgotten that credits do not include obligations secured by liens on real estate, while indebtedness which may be offset does include such obligations.

Indebtedness to the state on land contracts may be offset.

Amounts owing the state for school land purchased may be offset against credits.

Shares of stock are not credits.

The owner of shares of stock in a corporation cannot offset such shares by indebtedness, as shares of stock are not credits. A supreme court decision covers this point.

Bank shares not credits. (Court decision.)

The value of bank shares fixed for assessment purposes can not be reduced by deducting therefrom indebtedness of the owner of the shares because of a claim that the shares of stock are credits, as such shares are not credits to be offset by indebtedness. (53 Kan. 440.)

Shares of building and loan association stock not credits. (Court decision.)

"Stock issued by a building and loan association is not a credit within the meaning of the taxing laws, and the holder is not entitled to deduct the amount of his debts from the value thereof in the assessment thereof for taxation." (86 Kan. 106, Syllabus.)

Time deposits in bank may or may not be credits to be offset by debits.

A time deposit for a longer period than one year is a credit which may be offset by debts; but a time deposit for a period of one year or less is not a credit and cannot be offset by debits.

Money on deposit in a bank in a current account is not a credit which may be offset by debits, but must be listed for taxation.

Contingent liabilities. (Court decision.)

A mutual life insurance company cannot reduce its assessment by offsetting its "credits" with the contingent liability to its policyholders. (51 Kan. 636.)

V.

PLACE OF TAXATION.

Personal property in general.

In general, personal property is to be listed and taxed in the assessment district within the boundaries of which it is located on the 1st of March; but there are exceptions to the rule, as will hereafter appear.

General situs of moneys and credits.

Moneys and credits, aside from those pertaining to a business, which has a fixed place of operation, must be listed in the assessment district in which the owner resides on the first day of March; but moneys and credits pertaining to a business located are to be assessed at the place of business.

Situs of business property.

Property interests assessable to banks and the property of brokers, insurance or other companies, and merchants, are taxable within the assessment district where their business is transacted; manufactories and mines are taxable in the assessment district within which such interests are located.

Situs of animals and farming implements.

Animals and farming implements in general are to be listed and taxed where usually kept. This rule, however, is modified to the extent that if the owner live outside of the limits of a city, these two classes of property are to be taxed in the township of the owner's residence; thus, in such cases the residence of the owner instead of the location of the property fixes the situs.

Court decision.

"Where the owner of cattle and horses resides in one county, and the cattle and horses are kept in another county, and the owner of the property does not reside within the limits of

any city, the property should be taxed in the township where the owner of the property resides and not in the township or county where the property is kept." (32 Kan. 365.)

If the owner of animals resides in a city and has two farms in different townships in the same county, and keeps animals permanently on both farms, then the assessment district of each farm is entitled to have listed for taxation the animals kept on the farm within the district.

No county other than the county of the residence of a taxpayer has the right to assess animals if their owner live outside the limits of a city.

To illustrate: A person's residence is outside of a city, in a township and in a certain school district. His barns, corrals and the pastures wherein his animals are usually cared for lie across a road in another school district, but in the same township as the residence. In such a case the taxable situs of the animals is in the school district where the buildings and conveniences for caring for the animals are located. This rule controls as to animals kept in the manner so arranged for; but if the animals are kept in another county and are there prepared for and shipped to market, and are never in the township of the residence of the owner, the taxable situs is in the school district where the owner resides.

Court decision.

If a person residing in a city own real estate in the county in which the city is located, which real estate is used as a home ranch where the owner, who is engaged in purchasing, feeding and selling animals, keeps the animals during the summer season and returns them to such real estate when they are wintered away, the taxable situs of the animals is in the assessment district where the home ranch is situated, even if the animals are wintered in another county and their absence from the home ranch spans the first day of March. Under such circumstances the home ranch is in law the place where the animals are usually kept. (48 Kan. 586.)

Animals temporarily without the state.

Animals and farming implements temporarily outside the state boundaries must be returned for taxation in the county, township and school district where the owner resides on the first day of March.

Situs of debts due a resident of Kansas. (Court decisions.)

Debts due residents of the state of Kansas are as a general rule taxable in the assessment district where the owner resides. (6 Kan. App. 90.)

Again, notes belonging to residents of Kansas, given by residents of other states, secured by trust deeds or mortgages on real estate in such other states which never have been brought into Kansas but are left for safe-keeping only in the state where taken, are personal property in Kansas which has its taxable situs in the county, township and school district of the residence of its owner. (76 Kan. 816.)

Business situs.

An investment business may be so conducted as to give rise to a right of taxation of the property involved, in the state where the business is transacted. Such a situs is commonly called a "business situs." This means simply that if a person in one state sends into another state moneys to be handled by an agent or an attorney in fact, who has and exercises all the powers of investment which the owner has and would exercise were he in the state where the business is being transacted—that is to say, who invests the money, takes and records mortgages, collects the notes when due, releases recorded obligations, and reinvests money realized from the collection of such obligations, and handles the business exactly as the owner would handle it, transmitting to the owner occasionally amounts of income as agreed upon—then such property would have a business situs in the state where the business is being transacted and would be there taxable.

Shares of stock.

The shares of stock issued by a national or a state bank or a loan and investment company have their taxable situs in the assessment district where the institution is located. If, however, the shares are issued by a foreign corporation —foreign national banks excepted—or are the shares of a building and loan association, the taxable situs is in the assessment district of the resident owner, who must there list them.

Property of wards.

The place of taxation of the property of wards is in the assessment district where the wards reside, notwithstanding the fact that the guardian who has the property in possession or under control resides in another assessment or taxing district. This, of course, applies only to intangible property, such as notes, moneys, etc. It has no reference to the taxable situs of tangible personal property which, as above indicated, is generally taxable where located on the 1st of March.

The guardian should furnish the deputy assessors personal-property statements covering all of the ward's property in their respective districts.

Property in the hands of an executor or administrator.

Notes, moneys, stocks and other kinds of property included in the class known as "intangibles," as has been said before, are to be assessed at the domicile or residence of the owner. The death of the owner will not change the taxable situs of this kind of property, because if it passes into the hands of an executor or administrator he is not the owner, but merely a representative of the ownership, and until, pursuant to probate court proceedings, the property is divided among the distributees entitled thereto, its taxable situs is unchanged and the executor or administrator, no matter where his residence, must return such property for taxation in the assessment district where the former owner resided at the time of his death.

Place of taxation of grain delivered to an elevator.

If a person owning wheat delivers the same to an elevator situated in an assessment district other than the district in which the owner resides, such delivery being previous to the 1st day of March, the situs of the wheat for taxation purposes is changed to the district where the elevator is located.

If wheat be merely stored and remains unqualifiedly the property of the person who brought it for storage, it is to be listed for taxation in his name in the district where the elevator in which it is stored is located, and it becomes the duty of the elevator management to list the wheat in the name

of its owner by the elevator as agent, should the owner fail to list it himself and notify the elevator management.

If, however, wheat is delivered to the elevator under such conditions as in fact constitute a sale, then such wheat would not be assessable to the original owner, but must be taken account of by the elevator concern in returning for assessment the average quantity of merchandise on hand for the year preceding March 1.

If the wheat be delivered under an agreement that the person delivering may receive payment at some future time, at his election, and the wheat goes into the general stock of the elevator and is shipped to market, it is no longer the property of the original owner. In such case the person who sold the wheat would be the owner of a credit which would be taxable at his residence; that is to say, his demand upon the elevator for the price of the wheat would be such credit, and the proper measure of its value for assessment purposes would be the market value of wheat on the 1st of March.

Such a credit might be offset by an indebtedness of the seller of the wheat, and likewise the indebtedness of the elevator concern to the seller of the wheat would be taken account of in arriving at the average amount of debts of the elevator for the year preceding March 1, which may be deducted from the average amount of credits to be listed by the elevator.

Place of taxation of property of persons temporarily away from their residence.

The property of public officers or other persons who are performing public duties at the county seat of their respective counties or at the state capital or at other places is governed by the general rules. Tangible personal property at the temporary residence on the 1st day of March is there taxable, while intangibles, such as moneys, notes, etc., are taxable at the permanent residence of the owner.

Mutual fire and tornado insurance company property.

Under the provisions of section 5313, General Statutes of 1915, all moneys, notes or other property belonging to a mutual fire and tornado insurance company which are in the hands of the treasurer are to be listed by such officer for

taxation in the county, township and school district in which the treasurer resides.

All other property belonging to such a company which is not listable by the treasurer as before stated is to be listed by the secretary of the company in the county, township and school district in which such officer resides.

Transient personal property.

The old rule that "movables follow the person" has been generally recognized by courts as fixing the situs of personal property for taxation unless the rule has been modified by statute.

In 19th Kansas, at page 414, paragraph 2 of the syllabus reads: "The maxim of the common law, *Mobilia sequuntur personam*, does not always nor absolutely apply for the purpose of taxation to intangible personal property."

This language had reference only to a certain kind of intangible property which was held not to be within the rule, and therefore recognizes the existence of the rule.

The rule, thus limited to some extent by the decision, is more broadly approved and sustained by Mr. Justice Burch in speaking for a united court in 76 Kansas, at page 824.

In referring to the case in 19th Kansas, above cited, he says: "In the Fisher case promissory notes and a mortgage securing them were payable in Iowa and were left there for the purpose of collecting moneys due upon them. Probably the weight of authority would not now sustain a holding that the property had a business situs in Iowa because it was left there for collection."

The Kansas court, in effect, sustains the rule except as it may be modified by statutes or by changes in the method of using and handling this class of property so as to sever it for business purposes from the domicile of the owner and fix for it what is known as a "business situs" in some state other than that of the owner. This proposition has been hereinbefore stated.

The legislature early in the history of the state recognized the principle by providing that animals and farming implements owned by a nonresident of a city shall be taxed at the domicile of the owner, and also in the provision that "all

moneys and credits not pertaining to a business located shall be listed in the township or city in which the owner resided on the 1st day of March."

Tangible personal property which has a fixed situs does not come within the rule, as the law provides that it shall be assessed where located on the first day of March.

What has been said is merely preliminary to announcing rules which are to control in the assessment of transient property, the situs of which is not in terms fixed by the statute and which has either left its former situs and is on the way to the acquirement of another, or such property as in the transaction of business is temporarily away from its usual place of keeping, which place only in the nature of things can be held to be its permanent situs.

Evidently an automobile used by its owner in transporting pasengers may on the first day of March be many miles away from the place of business or the domicile of its owner. Clearly the law does not intend that the automobile in such case shall be assessed and taxed in the taxing district where it may happen to be on the morning of the first day of March. There are numerous instances of property of this kind; in fact, all vehicles and many farming implements, such as threshing machines and tractors, may be in transit and away from their permanent home on the first day of March.

Modification of the rule fixing the situs according to March 1 location.

The rule is to be generally observed that tangible personal property is to be assessed where located on March 1; but this rule is to some extent modified by chapter 248, Laws of 1899, and especially by section 3 of the chapter, as amended by section 1 of chapter 364, Laws of 1901.

This section as it now stands is section 11170, General Statutes of 1915. Briefly stated, the section requires a person to list for taxation personal property brought into any county in Kansas after the first day of March, provided the same has not already been assessed in some other county in the state. This means, of course, an owner who is removing his permanent residence from one county to another county.

In such case the only rule that can be announced is that

the county whose officers first assess the property is entitled to the assessment.

Should such person remove after the 1st of March, but before his assessment, then the officers of the county to which he has removed should make the assessment; on the other hand, if the assessment is made before such person removes, then the county to which the removal is being made has no authority to make the assessment.

The intent of the legislature was evidently that the property should be taxed somewhere, and the better proposition is that the taxing district in which the new domicile is situated shall have the assessment.

What is said above is not in conflict with what was said in response to questions at the Second Conference Convention with the county assessors, held in 1910, and reported on page 36 of the proceedings of that Conference.

The proposition is that if the deputy assessor of the county from which the removal is made first assesses the property it cannot be assessed in its later new location. On the other hand, if it is not assessed in the first county before an assessment is made in the new county, the latter will control.

Personal property moving through a county.

Personal property which is merely in transit through a county is not within the jurisdiction of such county for purposes of assessment and taxation. Either the taxing district where the transient movement originated or the one of the destination, according to the facts, will have the jurisdiction.

Stoppage in transit.

The law does not intend that a taxing district shall tax property which is not a part of the wealth of the district, whether owned by residents or nonresidents. If such property shall stop within a given taxing district, the question will arise whether the stoppage is temporary or may be considered as permanent in so far as taxation is concerned. In order to make it a temporary stoppage there must be shown to the assessing officer such facts as will make it clearly appear that there is an intention to resume the transit within a reasonable time.

Contingent removal.

The proposition that the property will be removed under certain contingencies should not be accepted as controlling. If the resumption of the transition depends upon contingencies the property may be well held to be located at the point of stoppage.

Temporary detention.

Again, property which suffers a temporary detention in transit, because denied facilities for transportation, cannot be held to be taxable where there is such detention.

Property in storage.

However, if property be stored while in transit, or held for an indefinite time, at the pleasure of the owner, or while awaiting a rise in the market, or for some process of changing its form, by manufacture or otherwise, which will make it more valuable, it may be held to have its situs where so detained.

VI.

TO WHOM IS PROPERTY ASSESSABLE.

Real estate.

All real property is assessed *in rem, i. e.*, the thing itself is assessed and the assessment is not against the owner or any other person. Real estate may appear upon the assessment roll without the name of the owner, and is assessed even if the owner be unknown.

Mineral reserves.

One of the perplexing things which will meet the assessing officer will be the assessment of "mineral reserves." If the fee to the land excluding the mineral is in one person and the fee to the mineral is in another person, then both interests are to be assessed as real estate. If, however, the fee to the mineral has not been separated by proper conveyance, then the mineral will of necessity have to be considered by the assessing officer in assessing the real estate as a whole, both land and mineral. Minerals include not only solid minerals in place, but, as well, oil and gas.

The assessing officer will experience more difficulty in determining whether or not the fee to the mineral has been alienated by the owner of the tract underlain by the mineral. To determine the question the assessing officer may need to consider the instrument by which there has been a claimed severance of the fee to the mineral from the fee to the original tract. A distinction as to instruments giving rights to the fee to the mineral is chiefly as between *grants* and *licenses*. Upon this point the supreme court, in 75 Kansas, reported at the bottom of page 339, said:

"There is no standard form for an 'oil and gas lease.' Each instrument must be interpreted in the light of its own peculiar provisions."

And on page 341, in speaking particularly of leases, the court said further:

"The lessee, having nothing but the right to enter, operate for and procure gas, obtained no right to any specific quantity of it, and until the gas is actually produced and severed so that it becomes personalty, the legal title to, and the possession of, the entire volume remain in the owner of the strata in which it is confined."

On page 574 of 78 Kansas the court said:

"This court has held in several cases that such a lease grants no estate in the land nor in the oil and gas which it may contain; it merely creates a license to enter and explore for oil and gas and to sever them if found."

On page 140 of 83 of Kansas the same court says:

"The ordinary agreement giving the lessee the right to enter and explore for oil and gas and to sever and own any that may be found, paying royalty to the owner of the land, is a license, which does not operate as a severance of the mineral."

In this case decided by the court the instrument under consideration was held to be a *grant* of the *minerals* instead of a *license*, and the court in distinguishing between the respective propositions, after first referring to the fact that mere licenses conveyed no interest in the mineral, said:

"On the other hand, attention is called to another class of writings which do transfer an interest in the mineral and operate to sever the ownership of the oil and gas from the ownership of the surface."

The question may be of such difficult determination as to require the deputy assessor to consult the county assessor, and possibly for the latter officer to consult the county attorney, in order to ascertain exactly the interpretation that should be placed upon a particular instrument as regards it being a *grant* or a *license*.

When it shall have been determined that an instrument under consideration severs the fee of the mineral from the remainder of the particular tract of real estate, the assessing officer is to proceed to value the "mineral reserve" under the provisions of section 11280, General Statutes of 1915.

Improvements on leaseholds.

Improvements upon leased real estate which are owned by the lessee are to be assessed to the latter as personal property.

Personal property in general.

Personal property is listable to the owner or any representative of the owner who has the property in possession or under control. If listed for the owner by any one in charge, the listing must be in the name of the owner by the person in charge designated according to his function, *i. e.*, as agent, executor, administrator, trustee, or whatever may be the name of his relationship.

Unlike the assessment of real estate, the personal-property assessment is personal to the owner and the resulting tax is a personal tax.

Pledged property.

Property pledged as collateral security for an indebtedness owing is taxable to the pledgor and not to the pledgee.

Merchandise sold after March 1.

Personal property is always assessable to the person who owns it on March 1. A stock of merchandise may be sold within a few days after the first day of March, even on March 2, and still it will be assessable to the person who owned it on March 1. The purchaser cannot be called upon to list for taxation personal property bought after March 1, provided he listed with the assessor all property which he owned on March 1.

Different ownerships on March 1.

If the ownership of property is changed on March 1 the first owner on that day must return the same for assessment.

VII.

CONTRACTS FOR THE SALE OF REAL ESTATE.

Cases decided by supreme court.

Where two parties enter into a written contract for the sale of real estate, and the purchaser makes a partial payment thereon and a definite promise to pay the remainder of the price at a certain time or times and to pay the taxes on the land, and is to receive possession thereof at a certain date, and the seller undertakes to convey the legal title to the land upon the payment in full of the amount of the purchase price, such transaction creates a debt from the purchaser to the seller, which is secured by the retention of the legal title to the land by the seller until the debt is paid. The debt is personal property and is taxable under the laws of this state, and this notwithstanding a provision in the contract that upon the failure of the purchaser to meet the conditions of the contract within a reasonable time the contract shall terminate and become void. (84 Kan. 508, Syllabus.)

Under a contract for the sale of real estate the purchaser paid a substantial part of the price and agreed to pay the balance in five years with annual interest, and was immediately given possession. A deed was executed conveying the title to him and placed in escrow, to be delivered upon payment of the balance. The purchaser was to have the right at any time to elect not to complete the purchase, in which event he was to forfeit all payments made and surrender possession, but was not to be liable for any further payments. *Held*, that the contract is taxable as property of the vendor though not necessarily to be valued at the amount of the purchase price remaining unpaid. (86 Kan. 426, Syllabus.)

Contracts for the conveyance of real estate for a consideration to be paid by the vendee, who also agrees to pay the taxes on the land and is given possession, are taxable against the vendor, although they contain provisions that

the vendee shall cultivate the land and apply one-half the proceeds of certain specified crops each year in payment for it and that the contract shall be void upon default of the vendee, who may then be treated as a tenant, and payments previously made applied as rent.

A clause in the contracts referred to, that time is of the essence of the agreement, does not relieve them from the burden of taxation. (89 Kan. 496, Syllabus.)

A bond for a deed calling for a conveyance after certain payments are made, for possession by the prospective grantee and the payment by him of taxes and insurance, on which bond certain payments have been made, is subject to taxation to the maker, notwithstanding it was not signed by the party to whom it runs, and he can quit paying and surrender possession at any time without being obligated in any sum to the maker.

A contract for the sale of land, upon the completion of specified payments and interests agreed to be made, together with the payment of taxes and insurance, to the purchaser, who is to have possession, to be surrendered on default, but such payments being optional with such purchaser, is subject to taxation in the hands of the maker. (91 Kan. 820, Syllabus.)

The syllabus in this case reads as follows:

"An absolute conveyance and a separate agreement to reconvey, though executed simultaneously, and as parts of one transaction, may or may not constitute a mortgage, and equity is not concluded by the form, but will have regard to the actual facts. The test is the existence or nonexistence of a debt. If after the transaction no debt remains, there is no mortgage, but only a conditional sale."

The inference, of course, is that if a debt arises out of the transaction, it is a taxable obligation in the hands of the payee. (Case of *McNamara v. Culver*, 22 Kan. 661.)

A contract giving another a mere option to purchase land by making certain future payments by a specified time is not taxable to the vendor unless such option is exercised. (*Boger v. Rohrer*, 93 Kan. 69.)

CONTRACTS IN GENERAL.

The facts connected with any agreement for the sale of real estate must be considered in order to reach a conclusion as to whether by the terms of the agreement a debt is

created that is taxable as personal property in the hands of the vendor of the real estate; thus every transaction of the kind is to be determined by itself, as no general rule can be laid down to govern the multifarious transactions of this kind.

Any contract for the sale of real estate, whereby an obligation is assumed by the vendee to pay money to the vendor, constitutes an item of personal property which should be listed by the owner of the obligation.

The written instrument may or may not embrace the whole of the contract. The rule in such cases is stated by the supreme court in the case of *Heskett v. The Border Queen Mill & Elevator Company*, 81 Kan. 356, as follows:

"Parol proof can not be received to enlarge, vary or contradict a complete written contract, but this rule is not applicable to a brief memorandum which on its face is obviously incomplete. As to such a writing parol evidence may be received, not to contradict the writing, but to show the complete agreement of the parties of which the writing is only a part."

VIII.

ASSESSMENT OF THE PROPERTY OF CORPORATIONS.

The statutes provide several methods for assessing the property of corporations. The following is a statement of the corporations by classes, showing also the assessing authority and the sections of law providing for the assessment of each class:

1. (*a*) Interstate or intercounty telegraph, telephone and pipe-line companies: Assessed by the State Board of Appraisers under the provisions of sections 11184 *et seq.*, G. S. 1915.

(*b*) Intracounty telegraph, telephone and pipe-line companies; in other words, all of those companies that have their lines entirely within a single county: Assessed by the county assessor under the provisions of section 11193, G. S. 1915.

2. (*a*) Express companies: The gross receipts are the basis for one tax and are determined by the Tax Commission. The statutory levy is applied by the auditor of state under the provisions of sections 11196 *et seq.*, G. S. 1915.

(*b*) Personal property: Assessed by the Tax Commission under the provisions of subdivision 15 of section 11299, G. S. 1915.

3. Banks and loan and investment companies are not assessed; but the shares of stock are assessed by deputy assessors under the provisions of section 11236, G. S. 1915.

4. Railroads are assessed by the State Board of Railroad Assessors pursuant to sections 11239 *et seq.*, G. S. 1915.

5. Car and other companies: Assessed by the State Board of Railroad Assessors, by authority of sections 11248 *et seq.*, G. S. 1915.

6. Street and interurban railroads: Assessed by the Tax Commission under subdivision 15 of section 11299, G. S. 1915.

7. Building and loan associations assessed by deputy assessors under sections 11179, 11180 and 11181, G. S. 1915.

8. Corporations in general by local authorities. Section 11164, G. S. 1915.

Only those classes of corporations subject to assessment by the local authorities are here considered, as follow:

CLASS 1 (b).

Intracounty Telegraph, Telephone and Pipe-line Companies.

Section 11193, General Statutes of 1915, makes special provision for the taxation of this class of corporations, and excepts them from the general rule under which corporations are to list their capital stock with the county or deputy assessor.

All county assessors are advised to value corporations of this class as going concerns, and in the determination of such value the gross earnings constitute one of the main factors to be considered.

The value of the physical property is to be determined for assessment purposes, even if such value is less than the value of the plant as a going concern. If the plant is of more actual value than the physical property is worth there is an intangible value which is called indifferently franchise, going-concern, or good-will value, or some other correlative term.

Assessors should always have in mind in assessing this class of property that all property is to be assessed at actual value. Intangible values owned are just as much subject to the law of assessment and taxation as are tangible or physical values.

Always the physical value must be determined in order that the total actual value may be distributed among the taxing districts relatively to the physical value of the parts of the plants in the districts, respectively.

Assessment of pipe lines.

It is thought best to here speak specifically regarding the assessment of pipe lines which are used for the conveyance of oil or gas, and regarding these it may be said that there

are three principal kinds of pipe lines used in the conveyance of these mineral products, as follows:

First. All lines are in a class by themselves which come within the meaning of section 11184, General Statutes of 1915, which says that all such lines when they are "engaged in the business of transporting gas or oil in pipes or pipe lines through or in this state, etc., shall be deemed a pipe-line company." These words are held to apply only to the lines of common carriers.

All these lines are to be assessed by the State Board of Appraisers if the lines are in more than one county in the state. All others, *i. e.*, those entirely within the limits of a single county, are to be assessed by the county assessor.

Second. Plants as provided in section 11282, General Statutes of 1915, that are engaged in the business of distributing heat, light, power, oil, gas, etc., to consumers. These plants do not come within the jurisdiction of the county assessor, not being pipe lines in the sense of the definition given by the law first above mentioned, but are to be assessed by the deputy assessor within the city where located. Should there be any short lines extending beyond the city limits they are to be assessed by the deputy assessor of the township in which they are located. This assessment is clearly provided for by said section 11282, General Statutes of 1915.

Third. Pipe lines which are not in the first class mentioned, but, in a way, are included in the second class. It is intended in this class to include all those pipe lines which are connected with a manufacturing plant and are built from the plant out through one or more townships and possibly across a county line to a field where a supply of gas and oil can be obtained. These likewise are to be assessed by the assessors of the different taxing districts through which the pipe lines run. Logically, lines of this character if in more than one district in a county should come within the jurisdiction of the county assessor, and if they cross a county line into another county, then under the jurisdiction of the State Board, but they are of a character which puts them for the purpose of assessment in the same class with the city distributing plants, because they are not pipe lines engaged in the business of transporting oil or gas for a consideration.

As was said at the last conference, city distributing plants are to be assessed by the deputy assessor as real estate and the assessment is made in the even-numbered year, and continues for four years unless there have been additions made to the plant. This assessment as real estate does not, however, necessarily cover all of the property owned by the distributing plant. There may be personal property, such as moneys, credits and different kinds of property in the store room. Because there is personal property to assess and capital stock to assess as personal property, an annual assessment of the corporation is necessary. If the real-estate assessment and the personal-property assessment together equal the total value of the plant considered as a going concern, there will then be no capital-stock assessment.

The first proposition is to determine the value of the whole plant as a going concern, and then to deduct from that the value of the real-estate and the personal property assessment as indicated above, and the remainder, if any, will be the capital-stock assessment.

What is here said is applicable to the assessment of the pipe lines before referred to, which are built from a manufacturing plant to the field where fuel, either oil or gas, is obtained. These lines, however, are to be assessed as real estate quadrennially, and when the manufacturing plant is itself assessed as a going concern at the place where its business is transacted the assessed value of such real estate is to be deducted, together with the value of all personal property assessed, in order to arrive at the capital-stock assessment of such a concern.

CLASS 3.

Banks, and Loan and Investment Companies.

This class of corporations is not assessed upon assets, except that real estate and furniture and fixtures owned are assessed to the corporation. Neither do these corporations return their capital stock for assessment as is required of corporations in general. Instead of the assets or capital-stock assessment of these corporations, the shares of stock in the hands of the individual shareholders are assessed and taxed as personal property.

In order to permanently settle certain controversies which had arisen in respect of the assessment of the shares of stock of this class of corporations, a suit, No. 21,603, entitled *The First National Bank of Junction City v. Rodger Moon et al.*, was brought in the supreme court upon the initiative of the Tax Commission, the attorney-general appearing on behalf of the public, and the syllabus by the court prefixed to its decision is as follows:

1. The tax contemplated by section 11236 of the General Statutes of 1915, relating to taxation of national banks, state banks, and loan or investment companies, is a tax on shares of stock in the hands of stockholders, and not a tax on capital stock or assets, the property of the corporation.

2. Shares of stock are to be assessed at their true value, which may or may not coincide with their bookkeeping value.

3. The assessed value of real estate generally, and not merely the banking house or office building, and real estate representing an investment of original capital stock, may be deducted from the value of shares of stock.

4. No deduction may be made for real estate in other states owned by state banks, national banks, or loan or investment companies.

5. In the case of state banks, the deduction on account of real estate necessary for the convenient transaction of business, including furniture and fixtures, may not exceed the value of the real estate which the bank has capacity to hold for that purpose.

6. The limitation stated in No. 5 does not apply to national banks or loan or investment companies.

7. No deduction from the assessed value of shares of stock of banks can be made on account of real estate acquired in the ordinary transaction of business which is retained beyond the periods limited by the state and federal laws for holding such real estate.

8. The classification of loan and investment companies with state and national banks for purpose of taxation is a reasonable classification, which does not infringe the constitutional requirement that taxes shall be assessed and levied at a uniform and equal rate.

9. The prohibition upon deducting from the value of shares of stock of state banks and loan or investment companies the value of real estate situated in a foreign state does not infringe the fourteenth amendment to the constitution of the United States.

10. The prohibition does not result in double taxation by this state.

11. Conduct of the State Tax Commission in arriving at the true value of shares of stock, not fraudulent or so arbitrary or capricious as to amount to fraud, is not subject to review by the courts.

In accordance with what may be termed rules of action thus annouced by the court, instructions are now given as follows:

Shares of stock to be assessed.

Shares of stock issued by banks and loan and investment companies are to be assessed as property of the shareholder at the actual value of such shares in money as of the first day of March. In order to arrive at this value the deputy assessor must investigate thoroughly as to all points necessary to enable him to determine what is such actual value. He should acquire a knowledge of earnings, of dividends paid, of amounts carried to surplus, of the asked and selling values of any shares of stock transferred during the calendar year preceding March 1, and, in short, should thoroughly advise himself on all questions which should be considered in arriving at the value of such property. A revised form No. 8 for use in the assessment of such shares of stock has been prepared, and the information indicated upon the blank to be given by the returning officer of the corporation will, when available, enable the assessing officer to assess the property as the law requires.

It will be noted in one of the propositions announced by the court that the assessable value may or may not coincide with the value of the shares as shown by the books of the institution. The value of the shares may be largely in excess of the book value, and in some cases they may possibly be less than the book value.

The assessment of this class of property calls for the exercise of the utmost intelligence and care on the part of the assessing officer.

Assessment of real estate owned by this class of corporations.

The only assets of an institution of the kind that are to be assessed to the institution itself are the real estate, furniture and fixtures owned.

Value of real estate to be deducted from the assessed value of the shares of stock of state banks.

First: From the assessment of the shares of stock of state banks is to be deducted the assessed value of real estate, furniture and fixtures, as follows:

(*a*) The assessed value of real estate which comprises the bank home, and the furniture and fixtures, not exceeding in amount one-third of the combined capital and surplus of the

institution. Any excess in the assessed value of the real estate and furniture and fixtures over and above one-third of the combined capital and surplus is to be rejected in the deduction.

(*b*) Other real estate, which becomes the property of the bank because taken over in the satisfaction of a debt, to which the bank has title in fee simple, is to be deducted to the extent of one-third of the combined capital and surplus. Any real estate of the kind owned in excess of one-third of the capital and surplus is to be rejected and not deducted. Real estate acquired in this manner, under the law of the state, can be carried for five years only, and after it has been carried five years it can no longer be deducted. Revised form No. 8 has provision for ascertaining the dates of deeds of conveyance, so the assessor may have proper knowledge as to how much of this kind of real estate owned is to be deducted from the assessment of the shares of stock.

(*c*) Should real estate be actually acquired in satisfaction of a debt, in the language of the court, "It would make no difference that title was taken, for convenience, in the name of some officer or employee of the corporation. If a deed should be given the corporation in payment of a debt, it would make no difference that the deed was withheld from record and the debt carried on the books of the bank as an obligation of the debtor. The real estate would belong to the bank by title in fee simple, within the meaning of the law."

But real estate so acquired cannot be carried for a longer period than five years, and after the five years elapse the assessed value thereof is no longer to be deducted from the assessment of the shares of stock.

(*d*) The court further held that "real estate deeded to the bank by warranty deed, but in fact for security only, would not be held by title in fee simple."

The methods of assessment which result from the decision of the court will require on the part of the assessing officer intelligent and diligent work in the assessment. Every effort should be made by the assessor to gain full and complete information upon every point involved in the deduction of the assesment of real estate from the assessed value of the shares of stock. Each description of real estate which the institution claims should be deducted should have the careful scrutiny of the assessing officer so that the assessment of the shares of stock shall be as the law requires, and it is the duty of the assessing officer to protect the public by securing the taxation of this class of property as the law requires.

No real estate situated outside of the state of Kansas owned by any institution of the kind is to be deducted.

What is here said as to state banks applies in all particulars to loan and investment companies.

Value of real estate to be deducted from the assessed value of the shares of stock of national banks.

What is said under the last heading as to the deduction of the assessed value of real estate from the assessed value of shares of stock issued by state banks is equally applicable to deductions to be allowed from the assessed value of the shares of stock of national banks, except that the full value of the banking home as assessed is to be deducted; and the full assessed value of other real estate acquired in the satisfaction of debts is also to be deducted for a period of five years after acquirement. The federal law limits national banks in the holding of such real estate to five years. After the five years elapse any real estate owned that long cannot thereafter be deducted.

Date of acquirement of real estate to be considered.

The assessed value of real estate acquired by either a state or a national bank after March 1 of the current tax year is not to be deducted from the assessment of the shares of stock for the current tax year.

Other assets nontaxable.

No other assets than the real estate and furniture and fixtures of an institution of the kind is assessable to the institution.

How returned for assessment.

The proper officer of an institution is required to give to the deputy assessor the information necessary to enable the shares of stock to be assessed within the intent of the law,

and also a correct list of the shareholders with the number of shares owned by each, and the actual value in money of such shares, which value, as above indicated, is to be reduced by a proper deduction from the shares *pro rata* of the value of real estate, furniture and fixtures assessed to the bank.

The deputy assessor is not necessarily to take the value as returned by the bank officer as the actual value of the shares. It is his privilege, and it is his duty to the public, to investigate thoroughly as to the actual value in money of the shares as of March 1, and the conclusion he reaches as to the value of the shares is the final determination of the proposition.

As already has been said, the tax is against the shareholders upon their shares of stock, and while the institution is required to pay the tax, if for any reason the tax should become delinquent a tax warrant may issue against each shareholder for the collection from him of the tax charged upon the aggregate value of his shares of stock. If a shareholder be a resident of some other county in the state the tax warrant may be sent, in the usual manner, to the sheriff in the county of his residence for service. All the shares, however, are taxable at the place where the institution is located, and the individual owner of the shares has nothing to do with listing the shares for assessment purposes, which work, as has been indicated, is to be performed by the proper officer of the institution.

Inspection of books.

The books, files or other documents of an institution may be inspected by the assessor in connection with the assessment of the shares of stock in order to enable him to determine their value, but for no other purposes are the books open to inspection.

Organization subsequent to March 1; question of taxability.

Shares only are assessable—less the assessed value of real estate owned—and investments in shares of any institution of the kind organized after March 1 made by a resident shareholder after the first of March, who has listed all of the property for taxation which he owned on March 1, is not subject to assessment for the current year.

If foreign money is, however, invested in such shares between the first of March and the first of September, the shares are subject to assessment, less the proportionate value of assessed real estate. The proper officer of the institution must always return for assessment any shares which come under the rules here announced.

Upon the presumption that all resident taxpayers list for taxation all of their property owned on March 1, shares of stock acquired after March 1 by residents of the state are not subject to assessment. If, on the contrary, any such shareholder can be shown not to have listed all of his property owned on March 1 his tax return is subject to correction under the proper statute, and an investigation may disclose the fact that the shares should be listed for taxation.

Supreme court decision.

The assessment of the entire stock of a national bank *in solido* against the bank itself is invalid.

The only way that the capital stock of a national bank can be reached is by the assessment of the shares of the different or individual stockholders. Under the statute of this state, the bank may pay the tax assessed upon the shares of its different stockholders, and it will have a lien thereon when it pays such tax until the same is satisfied. But if from any cause the tax levied upon the different stockholders is not paid by the bank, the property of the individual stockholders will be liable therefor.

The individual stockholders of a national bank are allowed the same deductions from the assessment against them upon their shares of stock as other taxpayers in the state owning moneyed capital are allowed; but of course no double deduction or exemption can be allowed to any stockholder.

(45 Kan. 726, Syllabus.)

The real estate value of which year is to be deducted.

The rule is that the real estate assessed value of the current year is to be the value apportioned among the shares of stock for reducing the value thereof.

The assessment of deposits.

In contemplation of law, all the assets which an institution holds are to be assessed in one form or another. As is indicated above, the real estate and furniture and fixtures in which the capital is invested is assessed to the corporation. The shares of stock are assessed to their owners at the actual value in money, less a proportionate part of the value of the assessed real estate, and all the assets of the corporation, exclusive of real estate and furniture and fixtures, and an amount representing the capital, surplus and undivided profits, less the amount invested in real estate, furniture and fixtures, are intended by the law to be covered by the assessment of moneys on deposit to the owners thereof.

Deposits taxable.

The law demands that every person having deposits in a corporation of this class shall list for taxation the amount of the deposit on March 1, and these deposits are not offset by an indebtedness owed to the corporation. The law expressly states that money on deposit "subject to be withdrawn on demand or within one year from the date of deposit, shall be entered in the statement at the full amount thereof."

Postal savings deposit.

In the absence of a federal law exempting deposits of this kind from taxation they are to be listed by the depositor. The Commission knows of no federal law making such exemption.

Deposits as credits to be offset by debits.

No deposit of money for a period of one year or less can be offset by an indebtedness, but must be listed for taxation at full value. If the contract of deposit be a *bona fide* one for a longer term than one year, it is then a credit which may be offset by debits.

Shares of foreign institutions.

All shares of stock issued by a foreign corporation subject to this law which are owned by a resident of Kansas are to be assessed and taxed in Kansas, except only the shares of stock issued by foreign national banks; these are always assessable in the taxing district where the bank is located.

CLASS 7.

Building and Loan Associations.

These associations are assessed under the provisions of sections 11179, 11180 and 11181 of the General Statutes of 1915.

The provisions of this chapter divide building and loan associations into two classes, as follow:

1. Those associations that have permanent or fixed capital stock.
2. Those that do not have permanent or fixed capital stock.

Section 11179, General Statutes of 1915, relates wholly to the assessment of permanent or fixed capital stock; that is to say, to the shares of such stock in the hands of individual owners, the same to be listed by one of the officers of the association designated by the law.

Section 11180, General Statutes of 1915, provides for the assessment of associations of the second class.

Section 11181, General Statutes of 1915, provides for the assessment of shareholders who own shares of stock other than shares of fixed or permanent capital.

By this is meant shares designated by such terms as installment shares, series shares, dividend shares, deposit shares, or the like. These classes of stock are clearly distinguished by the law from the shares of stock of permanent or fixed capital, which the first class of associations is authorized to issue.

The law under discussion appears to make no provision for the assessment of the assets of the first class of associations whcih are not represented by the fixed or permanent capital, together with the withdrawal value of free or unpledged shares; but the supreme court of Kansas has decided (81 Kan., pages 885 *et seq.*) that all property is subject to taxation whether a particular method of listing the same has been prescribed or not.

A careful study of the law has resulted in the conclusion that all the assets of the first-class associations which are in

excess of the value of the fixed or permanent capital, as provided in section 11179, General Statutes of 1915, increased by the assessment to owners of free shares, as provided in section 11181, General Statutes of 1915, are to be listed by the designated officer of the association that is being assessed.

Pursuant to what is above said, the deputy assessors are advised that building and loan associations are to be assessed under the following rules:

First class.

(*a*) The designated listing officer of an association of the first class must furnish to the deputy assessor a list of the holders of permanent or fixed shares of capital stock, giving in any such list, opposite the respective ownerships, the amount and value of the respective ownerships, which value must include the value of any undivided profits or surplus.

The assessed value of any real estate in which any portion of the said fixed or permanent capital has been invested is to be divided *pro rata* among the several ownerships of shares, and each prorated share is to be deducted from the gross value of the proper ownership, and the remainder will be the taxable value of the shares as personal property. The real estate in which any portion of the permanent or fixed capital shall have been invested is to be assessed as other lands or lots are assessed.

(*b*) The holders or owners of other shares issued by an association of this class are to list their shares, under the provisions of section 11181, General Statutes of 1915, at the withdrawal value thereof, which means the amount of money that the association must pay to any shareholder upon the surrender of his shares.

Installment, series, dividend, deposit or other designated shares, which are not fixed or permanent capital shares, which are free, *i. e.*, are not pledged as security for loans, and are withdrawable, are to be listed, as has been said, at their withdrawal value.

(*c*) In addition to the return of the shares of permanent or fixed capital the association itself is to list with the assessor the excess over the withdrawal value of all other shares.

Second class.

The second-class associations are to be assessed exactly as are associations of the first-class, except that there is no assessment of permanent or fixed shares, there being none.

The assessed value of real estate to which the association of this class has title, if such value corresponds to the book value, is to be deducted from the aggregate of property listed to the association.

Examination of books and files.

Officers charged with the duty of assessing the property of a given taxpayer have an undoubted right to investigate thoroughly as to all conditions and circumstances surrounding the property, and to that end may investigate records and files and may put the taxpayer under oath to answer all questions that may be asked him touching his property of every description, and penalties are provided to which the taxpayer may be subjected who refuses to give information required by the assessing officer.

Previous instruction revised as to list of shareholders.

Officers were previously advised that while they could not compel a building and loan association to furnish the deputy assessor with a list of shareholders, that nevertheless, such association must furnish the assessor such information as would enable him to ascertain the amount at which the assessment of the association should be fixed, and consequently must furnish a list of the withdrawal shares and the amount of the withdrawal value thereof.

This proposition was contested and the question was submitted to the attorney-general, and that officer refused to concur in the instruction as previously given by the Commission. It is the opinion of that officer that the books of an association are not open to the assessors for the purpose of enabling them to take a list of the shareholders in order to assess such shareholders on shares of stock which are not voluntarily returned for taxation by the owners. The attorney-general is the legal adviser of all officers, and particularly of state officers, and his opinion is controlling. Therefore, advice is now given that assessing officers have no right

to an investigation of the books and files of a building and loan association in order to get information which will enable them to assess shareholders upon their shares of stock who have not listed such shares for assessment and taxation.

The effect of this ruling of the attorney-general is to place building and loan associations in the same class with banks and loan and investment companies in respect of the assessor being denied the information which will enable him to assess taxpayers other than the particular institution.

There is a provision in chapter 96 of the Laws of 1915 which exempts building and loan associations from assessment and taxation on certain interests which would otherwise be taxable to the association in some measure. Section 7 of said chaper reads as follows:

"The amount to the credit of such rural credit shares shall be exempt from taxation."

This is understood to mean that the association itself cannot be assessed and taxed upon these values.

The statute does not, however, exempt the rural credit shares in the hands of the shareholders from assessment and taxation.

NOTE.—This instruction concerning the non-exemption of rural credit shares was prepared after consultation with the attorney-general.

CLASS 8.

Corporations in General.

In this class is included, as has been before indicated, all corporations not assessed under special statutes.

Of this class there are subdivisions, as follow:

1. Domestic corporations.
2. Foreign corporations having the principal office in Kansas.
3. Foreign corporations that have the principal office in another state.

The statute which is controlling as to the assessment of the interests of this class, subdivided as indicated, is section 11164, General Statutes of 1915.

The purposes of the statute under consideration was by the supreme court of the state, in the case of *The Harvester*

Building Company v. J. O. Hartley et al., reported in 98th Kansas, at page 732, held "in effect to require the corporation to list for taxation, and pay the taxes upon the property which otherwise the shareholder would have to return and answer for. The law undertakes to reach the property of the individual through the organization."

Supreme court interpretation of the statute.

In substance the court held that the assessment to be made is of the shares of stock at their actual value in money as the property of the shareholder, and in its opinion the court said: "In view of these considerations we think the fair meaning of the statute is that the corporation shall determine the value of its stock (*i. e.*, of all the shares of stock issued and outstanding which will necessarily be the value of its possessions and rights, including franchises and good will, in view of the use made of its property and the business it does—a value corresponding to its earning capacity), and deduct therefrom the assessed value of any specific property in the company which is separately listed, returning the difference as the additional amount for which it is taxable, subject to review by the proper officers."

In accordance with the interpretation of the law given by the court, advice is now given as to the method of assessment.

Form 2*a* is to be used in assessing all corporations, whether domestic or foreign, except corporations that are engaged in the business of merchandising or of manufacturing. (For the assessment of corporations engaged in merchandising or manufacturing, a special form is provided, No. 2*aa*.)

On Form 2*a* the officer designated by the corporation to return the property must list upon the first page of the form all assets owned or in the possession of the corporation as of March 1 which are made taxable by the law and which are given serial numbers and are designated on the first page of the blank. The listing required is the same kind of listing of taxable assets that is required of an individual owner of property.

Method of assessment.

On the back of the form, in the space provided for that purpose, the returning officer of the corporation is to state the actual value in money, as of March 1, of all the shares of stock issued by the corporation and outstanding in the hands of shareholders. The return value is not conclusive with the assessor, but it is his duty to make all the investigation necessary to enable him to determine what in fact was the actual value of the shares of stock as of March 1, and when his conclusion as to the value of the shares is reached, such conclusion is controlling.

After the listed assets on the first page of the blank are correctly valued by the assessor, the aggregate thereof constitutes one item which is to be deducted from the aggregate actual value in money of all the shares of stock as fixed on the reverse page of the blank.

In addition to the personal-property items listed for assessment in the district where the corporation has its principal office, there is to be deducted also the assessed value of other personal property in which the capital of the corporation is invested, and this is true whether the investment is made in other counties of the state or outside of the state. Certified copies of assessments so made should be required in order to show the right to any such deductions.

There is to be deducted also the assessed value of all real estate to which the corporation has title and in which its capital is invested, whether the investment be in real estate in the district where the principal office is located or in other counties of the state or outside of the state.

After the deduction of the values of the personalty and realty, if there is a remainder it is the amount to be assessed specially upon the shares of stock.

It will sometimes happen that the taxable assets listed, both personalty and realty, and assessed either in the district where the principal office is located or in other districts in the state or outside of the state, will exceed the value of the shares of stock. In such case there will be no special assessment on shares of stock.

However, in cases where the assets in hand exceed the actual value in money of all the shares of stock, the minimum assessment must be measured by the value of the assets in hand.

Foreign corporations whose principal office is in another state.

What has thus far been said applies to the assessment of domestic corporations and the foreign corporations that have the principal office in Kansas. As to foreign corporations the principal office of which is outside of the state, their assets in hand are to be listed for taxation the same as are those of domestic corporations or of foreign corporations having the principal office in the state. The shares of stock of such a corporation cannot be assessed through the corporation, as they are outside of the jurisdiction of the state, but if an investigation properly made shall convince the deputy assessor that the business of the corporation is such that there is connected with its transactions a going concern or an intangible value which is entirely the result of the business within the state, then advice is given to the effect that the assessment of the assets may be increased by the amount of any such intangible value as grows out of the business, whatever it may be denominated—franchise, going concern, good will, or other kind of intangible value.

This last instruction is justified by the holding of the supreme court of this state in a case in 83 Kansas, reported at page 195, where the court said:

"For many purposes intangible interests like those discussed may be considered as appurtenant to tangible property; whenever they cannot be reached for purposes of taxation in any other way they will be so considered, but the adoption of that method is not always essential."

Listing of shares of stock by owners.

When domestic corporations or foreign corporations having the principal office in the state have complied with the law by returning to the assessor the aggregate actual value in money of all the shares of stock, the resident owners of shares of stock cannot be required to list them for taxation, for the reason that the corporation has already listed the value of the shares for the shareholders. This rule, however, does not apply to resident holders of shares of stock in foreign corporations who have the principal office outside of the state and who have not complied with the statute. In such cases resident owners of shares of the foreign corporation's stock are required to list them for taxation.

The last rule is well sustained by decisions of the supreme court, the syllabi of which decisions are here reproduced, *i. e.:*

"The resident owner of shares of stock in a corporation which is organized in another state, and has its principal office in such state, and not in the state of Kansas, is required by the statutes of this state to list such shares for taxation at the full value thereof, and is not entitled to any deduction from the assessment thereof although all, or practically all, of the capital of such corporation is invested in real estate and personal property which is taxed in this state.

"Such taxation of such shares of stock is not double taxation, and the statutes authorizing the same are not void as in conflict with section 1 of article 11 of the constitution of the state of Kansas, but are valid." (82 Kan. 824.)

"Stock of a foreign corporation which does not have its principal office in Kansas held to be taxable at the residence of the owner in this state; the statute on the subject held not invalid on account of its title or the defective record of its enactment." (85 Kan. 199.)

The syllabus following relates to shares of stock issued by a foreign corporation that has its principal office in the state:

"The resident owner of stock of a foreign corporation having its principal office in this state is not required to list such stock for taxation." (83 Kan. 224.)

IX.

ASSESSMENT AND OTHER FORMS OR BLANKS.

In accordance with the requirements of the statute, the Tax Commission has prepared blanks or forms to be used in connection with assessment, the principal ones of which are as follow:

No. 1. Personal Property Assessment Roll.
No. 1*a*. Abstract of Personal Property Assessment—County Clerk.
No. 1*b*. Report of the County Assessor—Actual Value in Money of all Personal Property.
No. 1*i*. Summary of Assessment of Real Estate to be Reported by County Assessor before County Board of Equalization Acts.
No. 2. Personal Property Statement.
No. 2*a*. Personal Property Statement—Corporation.
No. 2*aa*. Personal Property Statement—Merchants and Manufacturers.
No. 2*b*. Merchants' Stock Statement.
No. 2*bb*. Manufacturers' Statement of Raw Material, Finished Product, etc.
No. 2*d*. Oath of Person Having no Personal Property.
No. 2*e*. Information Relating to Mortgages.
No. 3. Assessment Roll, Real Estate—Township.
No. 3*a*. Field Book, Real-estate Assessment—Not in Cities.

the bank has capacity to hold for that purpose.

No. 4. Assessment Roll, Real Estate—City.
No. 4*a*. Field Book—Real-estate Assessment in Cities.
No. 4*c*. Notice of Real-estate Assessment to Taxpayers.
No. 5. Tax Roll, Real Estate—Township—City.
No. 6. Tax Roll, Real Estate—City.
No. 7. Tax Roll, Personal Property.
No. 8. Bank Assessment Statement.

In what follows the forms are not discussed in numerical order as given above, the personal-property assessment forms and those for reporting the assessments being first considered.

FORM No. 2.

Personal-Property Statement.

The most important form in connection with the assessment of property is this personal-property statement, form No. 2. It is the blank for the assessing of personal property and is to be completely filled out and given to the assessor by every person of full age and sound mind who is required to list property for taxation, either for himself or others. *The law provides further that this statement shall be taken from all individuals of full age and sound mind* WHETHER THEY OWN PROPERTY OR NOT. The form is to be used in assessing officers of corporations of all kinds in their individual capacities, and individuals who are managers of the business of either merchandising or manufacturing. A person's interest in a partnership is not to be returned by him on this personal-property statement, but the partnership itself is to use one of the blanks in listing all of its taxable assets. Persons engaged in the management of a merchandising or manufacturing business must furnish two statements, one for property owned by the manager as an individual and another (Form 2*aa*) for the business.

The practice which has prevailed to a large extent among deputy assessors of leaving this blank to be filled out by the taxpayer at his leisure should be abandoned so far as is possible. In all cases the taxpayer should make his list and place his values in the presence of the deputy assessor and should sign the statement in his presence and should be sworn as to the correctness of the information given. Any changes made by the deputy assessor in the values as fixed by the owner must be made in the presence of the taxpayer so that he may have notice thereof, and if for any reason changes are not made, but are made thereafter, the taxpayer should always be advised of such change.

The deputy assessor should understand that he is engaged in the *business* of assessing property, and that he should give just as much attention to doing this work as he would to any other kind of employment. He is serving the state, not the taxpayer, and it is his duty to so do his official work as to get upon the tax roll the property of every taxpayer that he possibly can at values that are relatively equal. To

this end, if any person in any case when interrogated by the assessor as to any property, real or personal, of himself or another, shall refuse to be sworn or affirmed, or if, having been sworn or affirmed, he shall refuse to answer the interrogatories hereinbefore set out, or any other questions touching the subject of inquiry, such person, upon conviction thereof, shall be fined in any sum not more than five hundred dollars nor less than ten dollars, to which may be added imprisonment in the county jail not exceeding six months; and the assessor should advise each taxpayer of the penalty thus provided in case of default on his part.

Remarks in respect to changed or unchanged schedule numbers.

The form has been revised in some respects, the changes made to be hereafter observed.

Schedules Nos. 1 and 2, with their alphabetical subdivisions, remain unchanged.

The following schedule numbers are also the same now as before the revision, namely, numbers 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 23 with its alphabetical subdivisions, excepting *j*, *r*, *s*, *t*, *u* and *y*.

Schedule No. 24 is unchanged.

Schedule No. 3 is unchanged as to alphabetical subdivisions down to *g*; and 3*g* is hereafter to be used for the purpose of listing cows and heifers two years old and over which are not registered animals; 3*h* is to be used for listing and valuing male animals not registered, and 3*i* provides now for the listing of all registered animals, the males and females separately.

Schedule No. 15 has been made more explicit so as to indicate clearly what kind of property is to be listed under that schedule.

Schedule Nos. 19, 20, 21, 22 and 22*a* concern the business of a merchant or that of a manufacturer solely and are not to be used in connection with the assessment of individuals.

Schedule No 23*j* has been made more explicit by showing that only mortgages on real estate are to be listed under that schedule.

Schedule Nos. 23*r* and 23*s* heretofore have been used for the listing of typewriting machines and adding machines.

These two items have been transferred to 23*y*, and 23*r* is to be used for listing abstract books, and 23*s* for listing stands of bees.

Schedule No. 23*t* heretofore used for listing cash registers is now to be used for listing furniture and fixtures in stores and other places of business, cash registers having been transferred to 23*y*.

Schedule No. 23*u*, heretofore used for listing billiard and pool tables, is now to be used for listing structures and improvements on leased ground, billiard and pool tables having been transferred to 23*y*.

Special reference is made to the following schedule numbers:

Schedule No. 23y.

All kinds of property not specially provided for by the preceding subdivisions are to be covered in the aggregate by this subdivision. It will be apparent that the kinds of property that may be covered by this subdivision are largely in excess of the kinds specifically arranged for, and that singly they will be of minor importance. However, the aggregate may be considerable, and the deputy assessor should, as in other cases, leave nothing undone to see that every species of property not before covered is here included.

As an aid to the assessor a special form of blank has been prepared on which there is given a detailed classification of items of property that should be listed by the taxpayer separately, and when the values are correctly placed the whole amount therefor should be transferred to the personal-property statement opposite 23*y*. A careful use of this blank will undoubtedly be the means of discovering much property that heretofore has escaped assessment.

Subdivision No. 17: Moneys on hand, on deposit, also moneys invested in government bonds.

Any person having money on hand or in bank must list the same for taxation, and it is the duty of the deputy assessor to exhaust every source of information necessary to procure the return for assessment of all such property in his district. No owner of money, or of a demand upon a bank for money, should be permitted to evade his just obligation.

The investment of moneys in securities of other states will not avail the taxpayer in an attempt to evade taxation as all such securities are taxable at the place of residence of the owner. Any moneys deposited outside of the state with banks or other corporations or with individuals are also taxable to the owner who resides in Kansas.

All appearances of ownership of moneys or of securities in which money is invested, should be considered by the deputy assessor in making the assessment, and the testimony under oath of the assessed and of any and all persons thought to have knowledge upon the subject may be taken by the deputy assessor, except that bank officers may not be interrogated as to the contents of bank records.

Moneys not pertaining to a business *located* are to be listed in the township or city where the owner resided on the first day of March.

Moneys invested in government bonds as provided in section 11163, General Statutes of 1915, should be included in other moneys listed under this schedule number. (Moneys invested in *Liberty Bonds* are held not to be within the scope of this statute, and therefore are to be considered as nontaxable.)

Subdivision No. 18: Credits.

Schedule No. 18 is to be used in assessing the credits of all persons or partnerships who are not engaged in the business of merchandising or of manufacturing.

All persons or partnerships who are not engaged in merchandising or manufacturing are to be required to list their credits under schedule No. 18 in the place prepared for their itemization, and the net result is then to be carried to the schedule No. 18, reading "credits taxable."

If a property owner, whether an individual or partnership, who is not engaged in the business of merchandising or manufacturing, desires to offset an indebtedness against credits owned, he or it must list the indebtedness on the back of the form, and without this listing in detail as required in the place provided for that purpose no offset should be allowed.

The law permitting an offset of indebtedness against credits reads as follows:

"Debts owing in good faith by any person, company or corporation may be deducted from the gross amount of credits belonging to such person, company or corporation: *Provided,* Such debts are not owing to any person, company or corporation as depositors in any bank or banking association, or with any person or firm engaged in the business of banking in this state or elsewhere; and the persons, company or corporation making out the statement of personal property to be given to the assessor, claiming deductions here provided for, shall set forth both the amount and nature of the credits and the amount and nature of his debts sought to be deducted; but no person, company or corporation shall be entitled to any deduction on account of any bond or obligation given to any mutual insurance company, or deferred payment or loan for a policy of life insurance, nor on account of any unpaid subscription to any religious, literary, scientific or benevolent institution or society: *Provided,* That in deducting debts from credits no debt shall be deducted where said debt was created by a loan on government bonds or other taxable securities."

It should be noted that the word "taxable" in the last line of the law, just preceding the last word "securities," should be read nontaxable. The word "taxable" is clearly a misprint.

Particular attention should be given to the fact that *debits cannot be deducted from moneys or from any personal property except credits.*

All credits due residents of Kansas, whether from persons within or without the state, are taxable in Kansas, as in the case of moneys. The deputy assessor should exhaust every possible means to prevent this kind of property from escaping taxation, and he has at his command the testimony under oath of all persons (except bank officers as to contents of bank records only) who may be supposed to have knowledge upon the subject.

Mortgages, mechanic's liens, judgments or any other form of a claim which constitutes a lien against real estate cannot be included in the class of "credits" which can be offset by indebtedness.

Subdivision No. 23h: Real-estate contracts.

Elsewhere in this pamphlet, under the head of "Contracts for the sale of real estate," will be found full instructions regarding this subdivision.

Subdivision i: Judgments.

A judgment owned by a resident of the state of Kansas is taxable and is to be assessed to the owner at his place of residence; but judgments rendered by the courts of this state in favor of and which are owned by nonresidents are not taxable.

Subdivision j: Mortgages.

All mortgages should be listed by the owner for taxation at his place of residence. Record evidence of ownership is in the office of the register of deeds of each county. There is no excuse for this class of property not being assessed. These records make a *prima facie* case and should be consulted in order to verify all returns of mortgages for assessment. The device attempted, in some quarters, of assigning mortgages to nonresidents of the state in order to evade taxation will fail if the county assessors and deputy assessors are alert. Great power of investigation is given by the law and should always be exerted in cases where there is doubt as to the true listing of investments of this character. Debits cannot be deducted from real-estate mortages owned.

Subdivision x: Interests in telephone companies to be assessed by the deputy assessor.

Under this head are to be listed telephone interests which are not under the law to be assessed by the State Board of Appraisers or by the county assessor. The property of any telephone company, however the company may be organized, if the company is operated for profit, is to be assessed either by the State Board of Appraisers or by the county assessor. It may be a mutual company or a coöperative company, and yet operate for profit. It is only where a line has been built by an association of persons, each one of whom has bought his own telephone poles and wire and has built to a connection with his neighbor, that is to be assessed locally by the deputy assessor under this schedule number. There is but one other instance in which a deputy assessor should list telephone property under this head, and that is where a company builds a telephone line and allows the patrons of the line to buy their own telephones and make connections

with the line. In such cases the telephones should be returned by the owner to the deputy assessor and listed under this head.

Subdivision No. 24: Dogs.

All dogs three months old and over owned on March 1 are to be assessed to the owner as personal property, and this schedule subdivision is arranged for the enumeration of dogs, so that the per capita dog tax provided by the statute may be properly charged by the county clerk. This per capita tax is in addition to the personal-property tax.

Correct work.

It is of the greatest importance that care, exactness and intelligence shall show in the result of the work of the deputy assessors. Computations should be verified often enough to preclude all errors. If the personal property assessment forms, when filled out, are without errors, the rest of the work will be comparatively easy. If the multiplications and additions on the forms are correct, all that will remain to do will be to copy the returns from the personal-property statements onto the assessment roll (form No. 1), which form should be verified both as to vertical and cross-footings, and roll and statements are then to be delivered to the county clerk. Forms 2*b* and 2*bb* are to be retained in the office of the county assessor and are never to be delivered to the county clerk, as they do not belong among the files of his office.

FORM 2a.

Personal Property Statement—Corporations.

All that has been said concerning form No. 2 applies almost wholly to form No. 2*a*. The two forms differ as regards exemptions. Corporations are not entitled to exemptions.

The blank is to be used in listing the property of corporations in general, *i. e.*, corporations for which no special blanks are provided, such as banks, oil and gas companies, merchandising corporations, manufacturing corporations, etc. It should be noted that the items No. 19, 20, 21, 22 and 22*a* are not to be used. The blank is printed on tinted paper so as to make it readily distinguishable from form 2, which is on white paper, and from others on other shades of tinted paper as may be hereafter suggested. As has been elsewhere suggested, the basis of the assessment of general corporations is the value of the shares of stock as of March 1 of the current year; all shares are to be assessed at their actual market or cash value as of that date. From the aggregate thus derived, deductions are to be made as heretofore suggested underneath topic Class 8—Corporations in General.

Listing of personalty and assessment of shares of stock.

The personalty is to be listed on the front page of the form; and on the back page there is provision for the assessment of the shares of stock, and this is followed by a recapitulation of the assessment, which shows the aggregate of the detailed assessed actual value in money of the personal property, and the shares of stock assessment. It is very important that the blanks on this outside page be correctly filled.

The proper accounting officer of each corporation must answer and sign the interrogatories 1, 2 and 3 on the back page of the form, and must take, in proper manner, the oath prescribed.

FORM 2aa.

For use in assessing corporations or partnerships engaged in the business of merchandising or that of manufacturing. This blank, printed on paper tinted differently from all other blanks, is to be used solely for the listing for assessment purposes of property used in connection with either the business of a merchant or of a manufacturer, and whether the business is conducted by individuals, partnerships or corporations. It will be observed that schedule No. 18, "credits taxable," has no place in the assessment of the two kinds of business for which provision is hereby made. The blank has been prepared so that only property used in connection with either of the two kinds of business is to be listed. The property of any person engaged in the management of the business, which is owned by him individually and is not con-

nected with the business, is always to be listed on form No. 2; in other words, the manager of the business of a merchant or of a manufacturer always renders to the assessor two statements, one for his individual property not connected with the business, and one on which is listed solely the property involved in the transaction of the business.

So much confusion has heretofore arisen by reason of the combination, on one form, of property owned individually and not used in the business, and also of merchandising or manufacturing material and finished product and other property used in the business, that it became imperative that some system of separation of the two kinds of property ownership should be made.

If the business is conducted by a corporation, then the first proposition is to determine the value of the shares of stock issued by the corporation. The shares are taxable as property in the hands of the shareholder, but the shareholder is reached through the return made by the corporation of the value of the shares, and the corporation pays the tax and the shareholder is not molested unless the corporation fails to pay, in which case the shareholder is personally responsible and warrants may be issued against him for the tax. (What is said in this particular is applicable also to general corporations referred to above, which are assessed by the use of form 2*a*.) As to all corporations, the corporation itself is chargeable only with taxes upon listable assets, and the shareholder is indirectly charged through the corporation with the actual market value of his shares as of March 1, less his proportionate part of the assessed value of the assets of the corporation.

The legislature of 1917 amended the law in a manner which substitutes for the assessment of the finished product on hand March 1 the average amount of manufactured finished product for the year preceding March 1. This change will be noted on the revised form at schedule No. 22*a*. Under the present law manufacturers are assessable on the average amount of raw material for the year preceding March 1, and at the same time upon the average amount of finished product for the year preceding March 1. The change in the law was not made upon the suggestion of the Tax Commission.

FORM 2b.

This blank is designed to secure information for the assessing officer and has been revised so as to be used solely for the gathering of information concerning the business of merchants, which is necessary to enable the assessor to obtain a correct idea of the actual value of the property used in merchandising. All reference to the business of manufacturing, which appeared upon the blank before revision, has been eliminated, and another blank has been prepared for use in connection with the assessment of manufacturers. The *notes* on this blank, explanatory of transfers from it to form 2*aa*, should be carefully studied by assessors and be strictly complied with. The only item about which information is asked in the seventeen questions that is to be transferred to form 2*aa*, is No. 12, and this is clearly indicated. This blank is in no sense to be used as the assessment blank; it is designed merely to collect information necessary to enable the assessor to intelligently assess the property of the merchant. It is not to be returned to the county clerk; but is to be retained by the county assessor among his files, and is never to be used as the assessment blank. Always 2*aa* is to be used for the assessment of a merchant.

FORM 2bb.

This blank serves the same purpose as to manufacturing as 2*b* does for the business of merchandising, and the remarks concerning 2*b* are applicable to 2*bb*.

On the back of the forms 2*b* and 2*bb* are tables for ascertaining the average value of moneys and credits less the average value of debits, the remainder of which is then to be carried to the personal-property statement opposite subdivisions Nos. 20 or 22, according as the assessed is a merchant or manufacturer.

In ascertaining the average moneys for the year no attention should be paid to bank or other overdrafts.

The average debits may be deducted from average credits, but not from average moneys. The surplus of average credits over average debits is to be added to average moneys, and thus is obtained the amount which goes against sub-

division No. 20 or 22 on form 2*aa*, according to the character of the taxpayer being assessed.

The information which comes to the Tax Commission indicates that the deputy assessors have as much trouble, and perhaps more trouble, in assessing merchants and manufacturers than attends the assessment of any other class of taxpayers.

There is no reason whatever why citizens engaged in the business of merchandising or manufacturing should not bear their fair share of the tax burden, and in order to insure this they should be assessed for as full and actual cash value upon their property as is made of any other kind of property.

In every assessment district where there are merchants and manufacturers the county assessor should, if possible, appoint as deputy assessors persons having knowledge of businesses of the kind. Ordinarily the assessing officer will get little help from the person being assessed. This is clearly proved by experience. Persons engaged in the two kinds of business here under consideration should, in compliance with the law, have their affairs so in hand as to be able when visited by the deputy assessor to give exact information upon all points about which inquiry may be made by the assessing officer. If, however, they fail to have the knowledge, or if, having it, they withhold it from the assessing officer, then it is especially necessary that the officer be thoroughly conversant with the business of the taxpayer whom he is assessing, so that he may exercise his own judgment. All deputy assessors should realize the fact that they are not to be *controlled in the fixing of values by the declarations of the merchant or manufacturer;* and that if they fail to get the proper information from the merchant or manufacturer they themselves must of their own judgment determine the value required to be ascertained for assessment purposes.

Assessment of lumber stocks.

A statement is appended to the preliminary statement now being made which indicates how a lumber merchant, or any other merchant who transacts business like unto a lumber merchant, may arrive at the average quantity of merchandise on hand for the year, provided, of course, the merchant keeps books having therein a merchandise account.

The first column in the statement shows the sales for each month.

The second column shows the net profit on the sales arrived at at the close of the year's business, when the trial balance is taken.

The third column shows the merchandise account for the first day of each month.

The fourth column again shows the percent of net profit. which it will be noted increases in the aggregate from month to month.

The fifth column shows the total merchandising account from month to month, increased by the percent of profit on sales.

The sum of the totals of the third and fourth columns equals the total of the fifth column, and this divided by the number of months gives the average value of the merchandise for the year. It will be evident that the merchandise account is not decreased by the full value of the sales each month, but that a value of stock remains on hand equal to the gross profit, and it is correct to value such a part of the proceeds of sales as represents net profit in the example given in the statement. The increased amount of stock in February is the inventory showing, which appears in that month at the end of that year. This emphasizes the fact, already stated, that the actual stock in the business is much more than is shown by the merchandise account for the several months. If the true profit is determined for the year ended with December or January it may not be the exact profit for the year ended with the last day of February, but will approximate it so closely as to afford a reasonable basis for valuations.

MEMO. SALES FOR YEAR 1908.

1908.	Sales.	17.84 per cent.	Mdse. Acct.	17.84 per cent.	Total.
March....	$3,401.50	$606.83	$6,840.93	$606.83	$7,447.76
April.....	2,123.48	378.83	7,781.70	985.66	8,767.36
May.....	2,900.64	517.47	5,826.72	1,503.13	7,329.85
June.....	1,115.83	199.06	7,066.40	1,702.19	8,768.59
July.....	3,066.34	547.04	6,383.55	2,249.23	8,632.78
August...	3,478.59	620.58	5,871.90	2,869.81	8,741.71
Sept.....	3,332.19	594.46	4,187.07	3,464.27	7,651.34
October...	4,306.19	768.22	4,641.37	4,232.49	8,873.86
Nov.....	4,193.29	748.08	4,574.08	4,980.57	9,554.65
Dec.....	3,966.49	707.62	5,015.96	5,688.19	10,704.15
Jan.....	2,072.34	369.71	4,940.14	6,057.90	10,998.04
Feb.....	3,759.50	670.70	11,120.26	670.70	11,790.96
	$37,716.38	$6,728.60	$74,250.08	$35,010.97	$109,261.05
Average,			6,187.50		9,105.09

The merchant who keeps track of his business should have no trouble in making the statement on form 2*b*, and this form having been prescribed by the Tax Commission to aid the assessor, as is by law provided, it is the duty of the merchant, under the law, to furnish this statement when required by the deputy assessor. Justice to every taxpayer requires that merchants shall pay their full share of taxes, and the county assessor should call the attention of the deputy assessors fully to the requirement of the law in that regard, and should also advise them as fully as possible so that they may proceed with their work intelligently, and may then accomplish what the law requires.

The assessment of elevators.

Elevators situated upon leased ground are to be assessed as personal property in the taxing district where located. The business conducted through an elevator may be either a merchandising business or may have for its sole object the purchase of grain as raw material which is to be shipped to some other point in the state and there manufactured into flour or other product of grain.

If the business is purely that of a grain merchant—that is to say, if the elevator is engaged only in the buying and

selling of grain upon the market—then the assessment is to be made in the taxing district where the elevator is located, upon the value of the average quantity of grain on hand during the year preceding March 1. For example: If such a business concern shall during the year purchase and sell 200,000 bushels of grain, which cost, say, 90 cents per bushel, the assessment is not to be measured by multiplying the 200,000 bushels by the 90 cents, but instead the average quantity of merchandise is to be the measure of value at the market price, and the assessment may be arrived at as follows:

The quantity of grain purchased during the first day of business multiplied by the price will make the amount which is to go into the column that is to determine the average value during the month. The grain sold during the day multiplied by the price paid—not the price of the sale—is to be deducted from the first amount and the remainder carried forward to the next day, and this amount plus the purchase of that day, computed in the same manner, will be the second item to go into the column which is to determine the average; likewise, the shipments of grain during that day are to be treated like the shipments for the first day, and the remainder again carried forward. This process repeated for all the days of the month, or for the days of the month during which business is transacted, will produce a number of values in the column which is to determine the average, and when these amounts are aggregated and divided by the number of days in the month the result will be the average for the month. This process repeated each month will give the average for the months during which the business is conducted; that is, the results for the several months added and divided by the number of months will give the average. It is indisputable that every elevator concern, through its management, can furnish this information if so minded, as without doubt there is knowledge of the quantity of grain bought and shipped each day.

In addition to the grain merchandise, there is the item of average moneys for the year or for the period during which business is transacted, and this can be arrived at in exactly the same manner. The money on hand on the morning of the first day of business plus the moneys taken in during

the day would make the first day's amount which is to go into the column for averaging, and this amount less the payment for the day would go forward to the next morning, and the process be repeated, and thus the average moneys would be arrived at.

The average of bills receivable and bills payable may be determined in the same way, and if there be an excess of bills receivable over bills payable, the excess should be added to the moneys as averaged, and the result carried to the proper subdivision number of form 2 or 2*a*, according as the concern is owned by an individual or a corporation. Should the bills payable, however, exceed the bills receivable, the excess of the bills payable avails nothing to the owner. This excess of indebtedness can not be offset against any kind of property.

In addition to the items arrived at as above suggested the elevator must list all of its personal property owned, such as animals, wagons, furniture and fixtures, typewriters, etc.

Grains handled by such an elevator and shipped to a manufactory in the state for manufacture into some grain product are to be averaged and assessed in the taxing district where the manufactory is located, and the assessment officer of the taxing district where the elevator is located has no concern about this part of the grain handled. If, however, grain so purchased and designed as raw material to go into some grain product is shipped out of the state the rule is changed, and all grain so purchased should be assessed upon the average quantity on hand for the year at the place where the elevator is located.

The assessment of wheat in storage at elevators.

If wheat is delivered to an elevator by any person and is actually held in the elevator previous to March 1 as the property of the person making the delivery, such grain is assessable to the owner, but is assessable in the assessment district where the elevator in which it is stored is located. In such cases the elevator receipt is merely an evidence that the person who delivered the wheat has so much grain stored in the elevator, and grain so owned and located is not assessable in the assessment district where the owner

resides, because the law provides that personal property shall be assessed where it is located on the 1st day of March. This is the general rule, as has been said in this pamphlet in relation to other matters, the exceptions being as to animals and farming implements and intangible properties, such as moneys, credits, etc., which under certain conditions may be assessable, and as a rule are assessable, at the domicile of the owner. This rule holds good absolutely as to intangible property, and is true as to animals and farming implements if the owner lives outside a city.

If, contrary to the rule here suggested, owners of grain in storage in an assessment district other than the one in which they reside have been assessed for the grain in the district of their domicile, the assessment was erroneously made and may properly be transferred to the district where the grain is stored. It is the duty of the elevator management to separately list for taxation in the name of the owner all grain so stored, and the owner should be duly notified of such listing.

Not infrequently grain is delivered by owners previous to March 1 at elevators under a different contract from the one suggested in the preceding paragraphs. If the grain be delivered to the elevator, and is not actually stored but enters into the general stock of grain handled by the elevator, and is shipped out in due course of business transacted by the elevator concern, there has been a sale of the grain to the elevator, and there is due the owner whatever may have been agreed upon as the ultimate payment for the grain, and this amount due the owner is a credit which has its taxable situs at his residence and may be offset by his indebtedness, if such there be; and in all such cases the grain is to be included in the average quantity of merchandise for the year preceding March 1 which is to be returned by the elevator concern for its own taxation, and likewise when the indebtedness of the elevator concern to any one for grain purchased under the circumstances named may be offset against obligations due it provided they are not secured by lien on real estate.

Failure of the owner to aid the deputy assessor.

The deputy assessor should never accept a lump sum returned. He should always require the merchant to list his different assets the same as the ordinary individual taxpayer lists his. Any kind of property owned, the listing of which is provided for by a subdivision number on form 2 or 2*a*, should be there listed. A merchant's stock consists only of the goods on the shelf, and these are not to be discounted because of any claimed depreciation because of shelf-worn goods. The question asked among the seventeen questions on form 2*b* is not designed to enable the merchant to make a deduction from the assessment because of shelf-worn goods, but is intended only to ascertain what percentage, in making the inventory and appraisal at the end of the year, was taken off the goods when inventorying them because they were shelf-worn. No merchant has a right to deduct from the assessment, nor has the deputy assessor a right to allow a deduction from the assessment as finally determined to be the real value of the average merchandise stock, together with all other property, because of a claimed deterioration on account of shelf wear, the loss in value having been already accounted for in the inventory.

If merchants and manufacturers will not in good faith endeavor to advise the deputy assessor fully as to the value of their property that should be returned for taxation so that the assessment may be properly fixed, the assessor will then be justified in using his own judgment in fixing the values, and should give careful consideration and at least get the assessment as high as in his judgment it ought to be.

Merchants who commence business in Kansas between March 1 and November 1; how assessed. (Sections 11232 and 11233, General Statutes, 1915.)

The careful attention of assessors is asked to the following sections of the law.

"Every person, company or corporation who shall commence merchandising, trading or freighting in any town, city or village in this state after the first day of March and before the first day of November in any year, and the value of whose personal property so employed shall not have been listed for taxation in any other county in this state, shall report under oath to the clerk of the county in which such person, company or corporation is engaged in business the probable amount of the average value of personal property intended by such person, company or corporation to be so employed; and such amount shall be entered by said clerk on the assessment roll of the county in which such business may be carried on, and such property shall be taxed the same as if the same had been returned by the proper assessor.

"If any person, company or corporation shall commence merchandising, trading or freighting, so designated in the foregoing section, and shall not within one month thereafter report in accordance with the requirements of section sixteen of this act, such person, company or corporation shall forfeit and pay four per cent on the value of the personal property by him or them so employed; and the value of such property shall be ascertained by the testimony of witnesses called by the treasurer of the county in which such business may be carried on. And the said forfeiture shall be collected by such treasurer by a suit before any justice of the peace or court having jurisdiction thereof; and when such forfeiture shall be collected, the amount shall be distributed in the same proportion as other taxes: *Provided*, It shall be the duty of said treasurer to notify such merchant of the above requirement of law at least ten days before the commencement of such suit."

No special comment upon these sections of law is thought necessary, because the assessor by carefully reading the law quoted will understand the method of procedure in relation to the assessment of merchants who commence business in the state between the first day of March and the first day of November.

Branch businesses.

Oftentimes there are parent companies located in other states which have branches of their business in Kansas. These are, of course, *located* and in competition with locally owned and operated businesses of the same kind which bear their share of the tax burden.

The statute provides that moneys and credits are to be assessed where a business is *located*, and it goes without saying that all businesses of the kind should be assessed in a relatively equal manner with businesses locally owned and conducted.

Again, there are in the state parent companies that have business branches located in various taxing districts over the state. In such cases the parent company is to be assessed upon its capital stock in the taxing district where such company has its principal office, but the branches are

to be assessed as businesses located, and are to be treated exactly as similar businesses handled by local capital are treated. Moneys and credits and debits growing out of the branch business are to be assessed where such branch is located. It would be obviously unfair to allow a competitor of some locally established business to avoid its part of the burden of the support of the local government which the locally established business must sustain.

Fairness and good faith in all matters in connection with sustaining the burden of the public revenue is the main thing to be considered.

To a branch business there should be allotted such an amount of capital as is needed to finance the business in exactly the same manner that the locally owned and conducted business of like magnitude would have to be financed, and evidently it would not be a just or correct policy for a branch business having its parent office in another state or in another county of this state to transact its fiscal affairs in such a way as to deprive the locality of that to which it is justly entitled; in other words, the locality of the business is entitled to have conducted in the community itself at the place of the business the financial affairs pertaining to such business, and if not actually so conducted, should be so considered.

Assessment of life insurance companies.

Section 11178, General Statutes of 1915, requires that all life insurance companies organized and operating under the laws of Kansas shall be taxed for state, county, municipal and school purposes, as is provided for the taxation of property generally under the revenue laws of the state, and the following provisions relate to the returns which must be made by such companies, *i. e.:*

First, That all the real estate held or controlled by any company be returned.

Second, The net value of all its other assets or values in excess of the legally required reserve necessary to reinsure outstanding risks, and unpaid policy claims, which net value shall be assessed and taxed as is the property of individuals; and there is then the provision that nothing in the law shall

operate to exempt from taxation the paid-up capital stock of such companies.

Pursuant to the law it becomes necessary, therefore, for the deputy assessor to use form 2*a* in assessing all such corporations. The first proposition is to ascertain the amount of the paid-up capital stock; next to consider the value of the real estate held or controlled, together with the net value of all other assets. When the values of these assets are aggregated the amount of the legally required reserve necessary to reinsure outstanding risks and also unpaid policy claims is to be deducted. The remainder, after deducting the value of the real estate, is to be taxed in like manner as is the personal property of individuals. However, if the value of all assets is less than the amount of the paid-up capital-stock value, the assessment is to be measured by the amount of the paid-up capital stock. Should the net value as aforesaid exceed the value of the paid-up capital stock, then the latter is not to be the assessment value but the net value of the assets ascertained as aforesaid.

It may be necessary to consult the state insurance department in order to ascertain what is the legally required reserve necessary to reinsure the outstanding risks of any such corporation.

The assessment of these corporations will require considerable care.

FORM No. 8.

Assessment Statement for Banks, and Loan and Investment Companies.

Bank, loan and investment company returns.

This form is to be used in assessing incorporated banks, both national and state, and also loan and investment companies. In another part of this pamphlet the method for assessing these corporations is detailed at some length, but by way of emphasis it is again said that the shares of stock are to be assessed at their actual value in money as of March 1, ascertained under the methods heretofore pointed out, less the assessed value of real estate and furniture and fixtures. No other deductions are allowed by the statute. The shares of stock must be listed by the officer of the bank or other

institution in the name of the owners, and the proportionate values of the several items, with their total, should be placed opposite the names of the owners, the aggregate ownership by a single individual being reduced by a proportionate value of the real-estate assessment, which may be deducted in accordance with the general instructions given under the head of "Assessment of the property of corporations."

The officer making the return should be required to place in the space provided for the purpose, a description of the real estate sought to be deducted. Before the assessment is made the proper value to be deducted should be placed opposite the several descriptions of real estate.

After the assessable values of the shares in the hands of the owners thereof are ascertained, the names of the shareholders, with their respective assessments, must be entered in the personal-property assessment roll (form No. 1), and also on the tax roll. It will not do to enter the name of the bank on the assessment and tax rolls, for the reason that, as previously stated, the assessment is not against the bank, but is against its shareholders. It is important that this direction be observed, so that if the bank shall fail to pay the tax the county treasurer may, as required by law, collect it from the shareholder. To enable this to be done, should occasion require it, the value of the shares of each owner as assessed, and the tax charged thereon, should appear upon the tax roll.

FORM No. 1.

Personal Property Assessment Roll.

By section 11304, General Statutes of 1915, the Tax Commission is constituted a State Board of Equalization, and is required to "equalize the value of all property in this state between persons, firms or corporations of the same assessment district, between cities and townships of the same county, and between the different counties of the state and the property assessed by the said Tax Commission."

To enable the Commission to discharge this duty it is imperative that it be furnished with as much detailed information regarding local assessments as is practicable; therefore, forms Nos. 2, 2*a*, 2*aa*, 2*b*, 2*bb*, and 8, and the related forms Nos. 1, 1*a* and 1*b*, have been provided.

The Commission is well aware of the fact that the use of these forms will require much work of the assessing officers, but in no other way can the results be obtained which the law requires.

If the personal-property statements are correctly made the filling of form No. 1 will be largely copy work. If the county assessor requires the deputy assessors to transmit the personal-property statements every day or two, as he is authorized to do by the statute, there will be opportunity to compare the personal-property statements so returned with the assessment made the previous year of the same taxpayers, and in this way much property assessed in the previous year and omitted from the statements of the present year will be detected and the deputy assessors can be advised thereof and the taxpayers called upon for corrected statements. The transfer of the assessed values from the personal-property statements to form No. 1, the personal-property assessment roll, should always be made in the office of the county assessor and that officer should never permit this work to be done by the deputy assessors in the field. After the making of the roll in the office of the county assessor as indicated it should be duly verified, both as to the footing of the vertical columns and as to cross-footings, and is then to be turned over to the county clerk before the county board of equalization meets at the time required by law for the equalization of assessment values.

The columns provided for the county board of equalization enable an equalization of the values of all classes of property in the separate taxing districts. It is of the greatest importance that this work be done in the most complete and most equitable manner that is possible, so that in case the Tax Commission is required, under proceedings provided by law, to review the work of county equalization, it may be justified in sustaining the same and thereby avoid expense and delay.

In equalizing property the county board of equalization may increase or reduce values as may be just, but cannot place new property upon the roll; but property which has been omitted may be put upon the assessment roll under the

provisions of sections 11309 and 11331, General Statutes of 1915.

In accordance with an agreement by and between the Executive Committee of the County Clerk's Association and the Commission this form has been revised. The order of entering the classes of property and their values has been reversed from a horizontal to a vertical listing.

FORM No. 1a.

Abstract of personal-property assessment.

This form will be provided by the Tax Commission and sent in duplicate to the several county clerks. One copy, after the work of assessment and county equalization is summarized therein by townships and cities, is to be sent to the Tax Commission *on or before the* FIRST DAY OF JULY. The other copy is for the use of the county clerk, in order that he may retain a duplicate of his returns to the state.

As the returns shown by this form will be the basis for the work of the Tax Commission in equalizing assessed values among the townships and cities of the several counties, and among the counties, too much care cannot be used in supplying the indicated information.

The average prices called for should be proved before entering, as should also the sums of all the columns, and the cross footing of the sums of the columns should agree with the total of the summary column.

FORM No. 1b.

Report of County Assessor; Actual Value in Money of all Personal Property.

The knowledge of a properly qualified county assessor as to the actual value in money of the property in the county will be superior to that of all other persons. His opinion as to such value will be of great aid to the Tax Commission, and in order to obtain that opinion this form has been prepared. The form must be correctly made out by the county assessor and sent to the Commission *on or before the* THIRD MONDAY IN MAY.

The information called for concerning the work of the deputy assessor is the same as is covered by forms Nos. 1 and 1*a*. In place, however, of a column for amounts as equalized by the county board there has been substituted a column wherein the county assessor is to place amounts which, in his judgment, are the actual value in money of the different classes of property in the townships and cities of his county. This estimate of value must be made in advance of the equalization by the county board; in fact, must be entirely independent thereof, and it should be made before the forms turned over to him by the deputy assessors are in turn handed by him to the county clerk. To qualify him for the prompt and satisfactory making of this return, he must keep in touch with the deputy assessors while they are at work; must confer with, advise and direct them in the discharge of their duties; and he will thereby acquire the information necessary to enable him to give the desired values.

Statistical report of county assessor embracing assessed property nontaxable because of the family exemption.

The county assessor will be supplied also with two copies of form 1*a*. It is desired that one be used for reporting all lists of property which exceed in value the exemption given by the law—that is to say, is to embrace the lists of property which are taxable; the other form is to be used for returning to the Tax Commission all lists of property which are wholly exempted by reason of the family exemption of $200.

Nontaxable personal property statements aggregate several millions, and *many public interests require the reporting of correct data as to the kinds and quantities of property which by reason of the family exemption of $200 are made nontaxable.*

All property of the several kinds, with the values thereof respectively, should be placed upon the assessment roll, but separately from the placing thereon of the taxable lists of property, and, as has been said elsewhere, the exemption placed upon the statement where the values assessed are less than $200 should be only such a part of the $200 as is

required to balance the amount assessed. This is an important point and should have careful consideration.

In carrying the data of nontaxable property to the form 1*a*, sent to report that property specially, it is desired that in reporting for the township or city the county assessor shall designate the number of nontaxable statements in the townships and cities, respectively. No column is printed on the form for the furnishing of such data, but it is suggested that the numbers may be placed in the box-heading immediately after the name of the township which appears at the head of the column of property as classified.

This special form 1*a*, which is to be used for reporting nontaxable property, need not be sent to the Commission as early as the form 1*b*, and may be sent at any time before July 1.

FORMS 1a AND 1b CONTRASTED.

Some confusion has arisen in the past as to the use of these two forms. There should be no such confusion. Form 1*a* is to be used by the *county clerk* for reporting to the Tax Commission the assessed values of all personal property in his county as equalized by the county board. Form 1*b* is to be used by the *county assessor* in reporting to the Tax Commission, ON OR BEFORE THE THIRD MONDAY IN MAY, THE ASSESSED VALUES BEFORE THE COUNTY BOARD OF EQUALIZATION HAD MADE ANY CHANGES BY REASON OF THEIR EQUALIZATION. It should be apparent why these forms are required. In no other way than by having the information called for by these forms can the Commission be advised as to the work of the county boards of equalization in the state, and the law expressly requires the Commission to keep advised as to their work, in order, if necessary, that they may be required to reconvene and discharge duties which they have failed to do when regularly in session under the statute. The fact that the county clerk in most of the counties of the state is *ex officio* county assessor will make no difference in regard to the necessity of these two forms.

NOTE.—In addition to the above indicated use of form 1*a*, it is now to be used also by the county assessor as well as by the county clerk, but the county assessor is to use it for reporting nontaxable property as stated under the previous heading, but this use of the form does not in any wise conflict with what is said above showing the contrast of forms 1*a* and 1*b* for the particular purpose of reporting non-equalized and equalized values to the State Board.

FORM No. 1i.

Summary of Assessment of Real Estate to be Reported by County Assessor.

In the state equalization of the assessment of property it is all-important that the State Board of Equalization be advised as to changes made by county boards of equalization in the values of real estate in the townships and cities of the several counties. In order that the state board may have this information, this form 1*i* has been prepared, on which are to be reported the assessed values of all real estate, which report is to be made before the county board of equalization convenes, and is to be forwarded to the Tax Commission on or before May 15. Only such values as have been fixed by the deputy assessor in assessing real estate are to be reported on this form.

FORM No. 3.

Assessment Roll, Real Estate—Townships.

FORM No. 4.

Assessment Roll, Real Estate—Cities.

The law provides that the Tax Commission "shall provide a uniform method of keeping the tax rolls and books relating to taxation in each county of the state," etc.

There are probably few, if any, parts of the assessment work that are of more importance than a correct making out of the real-estate assessment rolls.

The county clerk is now required by law to make out the real-estate assessment rolls (section 11268, G. S. 1915).

The legislature in 1915 amended the law so as to provide for quadrennial assessment of real estate instead of biennial assessments, required up to the present time. The first quadrennial assessment of real estate will occur in 1918, and forms 3 and 4 have been changed in such ways as to provide for a record of changes in values during the four years covered by the quadrennial assessment. The county clerks have all been supplied with the revised forms.

FORM No. 5.

Tax Roll, Real Estate—Townships—Cities.

FORM No. 6.

Tax Roll, Real Estate—Cities.

FORM No. 7.

Tax Roll, Personal Property.

Form No. 5. "Tax-roll, Real Estate, for Townships and Cities," is designed for use in all townships, and in such cities as do not find it necessary to make any considerable number of special levies, such as for paving, sidewalks, etc. Except as to the order of headings of columns, it was not intended to lay down an inflexible rule for the printing of the rolls, and accordingly Circular Letter No. 3 provided that the columns of the forms might be spaced larger in order to afford more room for descriptions, etc.; that additional columns might be provided when imperatively required for special items, such as surveyor's fees, drainage-district levies, and other special taxes, and that, when required, a column for block numbers might be added to the city tax rolls.

Form No. 6 is intended for use in cities where provision is made by ordinance for special taxes, such as for paving streets, paving alleys, building sewers, sidewalks, etc.

As to form No. 7, "Tax Roll, Personal Property," nothing special need be said. It is left to the county authorities to determine whether it shall be bound separately or in combination with form No. 5 or No. 6 for the respective townships and cities.

Such other forms will be prepared from time to time as may be found necessary in procuring a uniform assessment and taxation throughout the state as required by law.

FORM No. 2d.

Oath of Person Having No Personal Property.

Reference has been made elsewhere to the fact that the law requires the deputy assessor to take a personal-property statement, form No. 2, from every person of full age and sound mind in his taxing district, whether owning property or not. The statute making this requirement is section 11160, General Statutes of 1915.

As a possible means of expediting the work, form No. 2*d*, entitled "Oath of Person Having No Personal Property," has been prepared and is furnished by the printing houses in paper-bound books containing twenty-five or fifty pages. If found more expedient to use this form in assessing persons who have no property it may be used instead of form No. 2, but where this blank is used the deputy assessor should read to the person who claims to have no property all the scheduled items on form No. 2 and should ask him if he owns any of either scheduled kinds of property. If the questioning develops that he has some property, one or other of the kinds, then form No. 2 must be used, but if it is clearly demonstrated that the person owns no property which he is required to list for taxation, then the form No. 2*d*, now being discussed, may be used instead of form No. 2.

FORM No. 2e.

Information Relating to Mortgages.

This is a new blank prepared to assist the deputy assessor in acquiring information regarding the ownership of mortgages which appear of record in the name of a person who claims that he no longer owns the mortgage, but that it has been assigned, although the assignment does not appear of record.

FORM No. 3a.

Field Book—Real-estate Assessment, Not in Cities.

FORM No. 4a.

Field Book—Real-estate Assessment, in Cities.

These forms have been prepared for use in accordance with that provision of section 11268, General Statutes of 1915, which requires the county assessor to furnish the deputy assessor with a field book for the assessment of real estate, whether within or outside of cities, with the further requirement that the original sheet of entry shall be torn from the book and transmitted, by mail or otherwise, to the county assessor at the time and in the manner he shall require.

FORM No. 4c.

Notice of Real-estate Assessment to Taxpayers.

This form is simply a postal card prepared to enable the county assessor to comply with the provisions of section 11271, General Statutes of 1915, which requires that officer to mail to the owner of real estate a notice which shall contain a description of the real estate assessed and the amount of the assessment.

FORM No. 11.

Abstract of Assessment Roll.

Columns 1 and 2 of this form are designed for reporting "cultivated" and "uncultivated" acres.

There are many reasons why a compilation of the acreage of lands cultivated and uncultivated is necessary for public information.

Columns for the gathering of these data are provided in form No. 3*a*, the field book for lands outside of cities.

The question has sometimes been raised by deputy assessors as to what is the line which separates cultivated from uncultivated land. What is said here is for the purpose of stating rules to be observed by all deputy assessors in collecting these data.

First: Cultivated land is held to include all land that is cultivated to crops; that is, all land the sod of which has been broken and the land devoted for a series of years to crop raising, and it matters not for what purposes the land is tilled; therefore, lands devoted to the raising of small grains, of tame grasses and to orchards are to be classed as cultivated.

Second: All others are uncultivated.

X.

GENERAL RULES TO BE OBSERVED IN ASSESSMENT.

Actual view.

The law requires that all property shall be assessed at its actual value in money. The assessor is himself to determine the actual value and cannot do so unless he personally views and inspects the property, both real and personal.

The law in terms requires the assessor to actually view and inspect real property before he fixes the value. It is equally important, and probably more important, that personal property be always viewed by the assessor when the same is practicable.

The character of some property precludes its being seen. Intangible values, of course, cannot be viewed.

In many instances the assessor will be called upon to assess property which, by reason of its location in parts of the county or state far removed from the point where the law makes it assessable, cannot in any practicable way be viewed, and in such cases, of course, he will be justified in arriving at its value by other evidence than will result from his personal inspection; but in all cases, where the property can be seen, it should not be valued without personal inspection by the assessor.

Who to make statements.

Whenever it is possible, even under difficulty, the taxpayer should make out his own personal property statement. Of course, if by lack of education or other missing qualification he cannot write out his own statement, it may be done for him by the assessor or some other person, preferably by the other person. It should always be remembered that a statement made in a taxpayer's handwriting and signed by him personally is the best evidence of what he lists for taxation,

and the question often arises as to whether or not a given taxpayer has listed all property which the law requires him to return.

Fixing values.

The law requires the owner to value the property which he returns for taxation. This does not fix the assessment value, but should always be required. The assessment value must be fixed by the assessor, and if his conclusion is that the owner has undervalued the listed property, then the same should be at once valued according to the best judgment of the assessor, and in the presence of the owner, who should always be given a knowledge of the amount of his assessment.

Penalty for refusal to furnish statement required by law.

If any person called upon by the deputy assessor for a return of property shall refuse to make out and deliver the statement required by law, or shall refuse to take and subscribe to any of the oaths or affirmations required, it is the duty of the deputy assessor to proceed otherwise to ascertain what property is owned by such person, and to that end he is authorized to examine under oath any other person (except bank officers as to contents of bank records only) whom he may suppose to have knowledge thereof; and in any such case the deputy assessor must make a note of such refusal upon the statement, in order that the county assessor may have the information necessary to enable him to increase the actual value in money assessment made by the deputy assessor, by adding thereto the statutory penalty of fifty per centum. (See § 11320, G. S. 1915.) Should any person so summoned to testify refuse to be sworn or to answer questions asked by the assessor, he would become liable to the penalty of section 11321, General Statutes of 1915.

The deputy assessor has authority to administer an oath to every taxpayer as authorized by section 11321, General Statutes of 1915, preliminary to the assessment, to the effect that the taxpayer will true answers make to any and all questions asked by the deputy assessor in relation to his ownership of property.

The following form of oath may be used:

You do solemnly swear that you will make true answers to all questions which may be asked of you touching the property of every description owned by you, or under your control as the representative of any other owner, which by law is required to be listed for taxation. So help you God.

If the person being assessed prefers to make affirmation the following form may be used:

You do solemnly, sincerely and truly declare and affirm that you will make true answers to all questions which may be asked of you touching the property of every description owned by you, or under your control as the representative of any other owner, which by law is required to be listed for taxation, and this you do under the pains and penalties of perjury.

Penalty for failure to administer oath.

If the assessor shall knowingly and willfully fail to require a statement under oath from every person of full age and sound mind in his taxing district, whether owning property or not, the assessor becomes subject to a penalty of not less than $10 nor more than $20 for each failure.

Every person, whether male or female, of lawful age, must make out a personal-property statement.

The law requires every person of full age and sound mind, male or female, to furnish the deputy assessor with the information required by the questions asked on the personal-property statement.

Every person being assessed should be interrogated by the assessor as to his ownership of the different classes of property, commencing with schedule 1, and in response to the question asked as regards the schedule numbers *seriatim*, the person, if he or she have no property, should write opposite the schedule number the word "none," and after proceeding in the same manner through the whole list of schedule numbers should then sign the statement and take the oath prescribed as to the truth of the affidavit, etc. However, form 2*d* has been provided, which may be used by the deputy assessor in cases where the person being assessed owns no property whatever which the law requires to be listed, instead of using the regular form No. 2, but if 2*d* be used, then the deputy assessor must first question the

person under oath who is being assessed as to his or her ownership of the kinds of property in detail according to the schedule numbers on form 2.

It is important that one or the other of these methods be followed by the deputy assessor as regards every person of proper age and sound mind in his assessment district.

Deputy assessor to advise and instruct taxpayer in filling statement.

The deputy assessor must advise and instruct the person being assessed as to the way in which the form should be filled out, and must ask him, as before said, to be answered under oath, any questions which shall be found desirable in an endeavor to have disclosed all the property owned by the taxpayer, so that the same may be properly listed and bear its share in supplying the state with revenue.

The property of each individual should be listed separately. For instance, the property of the wife should be listed separately from that of the husband, and the property of minors, wards and others held by trustees, executors, administrators or otherwise must be listed on separate statements by the proper representative of the owner; the listing always being in the name of the owner by————, with the kind of agency designated.

Value by deputy assessor.

The duty of the deputy assessor is merely to assess the property which the owner has himself listed and valued. The deputy assessor is not controlled in his action in the least by the values placed by the owner. He is himself to determine the values and should fix the value in the assessment as determined by his best judgment, regardless of the values placed by the owner, but to enable him to act intelligently he must see the property before he fixes the value. As is said above, any change from the value fixed by the owner should be made by the deputy assessor in the presence of the owner, and if not so made he should be notified of such change. It is necessary that the taxpayer have knowledge of the assessment fixed by the deputy assessor, because if he has no such knowledge the assessment may fail. No taxpayer should be required to sign a

return until the same is read to him in such manner as to give a thorough knowledge of what it contains. If a taxpayer's name is signed by himself to the statement it is the best evidence that the property was listed and valued in his presence.

Taxpayer make statement.

Every taxpayer must fill out fully and completely the personal-property statement provided by law upon which he is to make his return, and the law requires him to value his own property on the return at its actual value in money. If for any reason the assessed person is incapable of making the statement he should procure some one other than the deputy assessor to make the statement for him, and, except as an unavoidable last resort, the deputy assessor should not do even the clerical work of filling out the statement.

Interrogatories to be answered by taxpayer.

The three interrogatories upon forms 2 and 2*a* must be brought by the deputy assessor to the attention of the taxpayer in every case, and the taxpayer should be required to read the questions, or they should be read to him by the deputy assessor, and he should then be required to answer each question, and to the correctness of his answers he should be formally sworn by the deputy assessor, and the affidavit should be subscribed in the presence of the deputy assessor. It is very necessary that the formality of administering the oath be observed. The deputy assessor should not be content with letting the taxpayer simply sign his name, but should require him to hold up his hand and the oath should then be administered.

May not change personal-property statement.

A personal property statement received by the assessor, who makes no objection to the statement at the time, and returns the same to the county clerk, in whose office it is filed, can not be changed by the assessor thereafter by adding to the assessed value of the property unless notice is given the owner. (44 Kan. 203.)

Store furniture and fixtures.

Store furniture and fixtures comprise the counters, shelving, show cases, stoves, safes and other furniture needed in the transaction of the business which are not a part of the merchandise, and should be listed under schedule 23*t*. Fixtures of this kind do not include cash registers, typewriters or other kinds of property, the listing of which is specially provided for on forms 2, 2*a* and 2*aa* under regular schedule number 23*y*.

Buildings, parts of which are under different ownerships.

Sometimes the assessor is confronted with the divided ownership of a building. This condition will generally appear in connection with secret or fraternal societies. An individual or an organization of some character makes an agreement with the Masons, Odd Fellows, Knights of Honor or some other fraternal order for the erection of a building upon a certain tract of real estate, the fraternal society, usually called a "lodge," being privileged to erect one or more stories upon a building structure of one or more stories previously erected by the owner of the real estate.

In determining the respective interests in the building and the assessable nature of those interests, the *terms* of the agreement by which the erection of the upper stories proceeded are to be carefully considered.

If the terms of the contract were such that the upper stories after erection became the permanent property of the organization which erected them, then all such parts of the building are to be assessed to the respective owners thereof as personal property.

If, however, the building is done under a contract whereby the stories separately erected become a part of the real estate, then there is no divided ownership, and the whole is to be assessed to the owner of the real estate, the parcel of land and the building thereon as a whole being all combined in the assessment fixed for the whole.

The following examples may illustrate some of the phases of the question:

An owner of a parcel of land erects thereon one or more stories of a building and then gives to some other person or

an organization the privilege of erecting another story, and even more than one, upon the structure already built, to be occupied by the builder of the upper story or stories for a given number of years, at the expiration of which the owner of the parcel of land upon which the building is erected enters into the possession of the whole property. In such a case there is no separate ownership of any part of the building, but the builder of the upper story or stories, in effect, has a lease for a term of years, and the cost of the erection of the stories so occupied may be considered as a consideration for the lease. In such a case the whole building would be assessable to the owner of the parcel of ground.

Again, if the owner of the ground and of the lower part of the building agrees with some other person or an organization that the latter may erect a story upon stories already built, which story so erected is to be considered as the permanent property of the builder, then such part of the building is not real estate and is to be considered as personal property and separately assessed from the other part of the building and the land upon which the whole structure stands.

Growing crops.

Annual crops, such as alfalfa, hay, corn, wheat, oats, etc., are not assessable as personal property while growing; it is only after such products are harvested that they assume the form of taxable personalty.

Average value per acre.

The average value per acre of farm lands is to be arrived at by dividing the acreage into the value of the land as fixed, improvements being excluded.

Indemnity contracts.

A contract, whatever be its nature, which is given by one person to another to secure the latter from loss because he has guaranteed the performance of something agreed to be done by the maker of the indemnifying contract, is held not to be a credit nor any other species of property that is subject to assessment and taxation. In other words, an in-

demnifying contract is not property; it is merely a promise or agreement, secured or unsecured, to protect and save from loss some person who in some way has guaranteed the faithful performance of some promise made by the maker of the indemnifying contract.

To illustrate: A father, in order to aid his son, mortgaged his own place for $4,000 and lets the son have the money with which to buy a tract of real estate, upon which tract so purchased there is a mortgage of $5,000, which the son assumes. The son gives the father a second mortgage to indemnify the latter from loss on account of the mortgage of $4,000 which the father has placed upon his own land. In such a case it is held that the mortgage of the son to the father is an indemnity mortgage without any such consideration as makes it a taxable item of property.

In this transaction are two mortgages which are taxable in the hands of the respective owners thereof, *i. e.*, the mortgage of $5,000 which the son assumes, and the mortgage of $4,000 upon the father's land.

The indemnifying obligation in the hands of the father is not to be considered at all as regards assessment and taxation. It is not a debit of the son which may be offset by his indebtedness. His debit in fact is the $4,000 mortgage on the father's farm. As far as debits and credits are concerned with the father, there is none. The debt is not his debt and cannot be offset against his credits.

Rental agreements.

The rule, many times stated, that rental agreements should not be taxed is here reaffirmed. However, there are some obligations based upon rental agreements or leases that come within the terms of the statute requiring them to be listed for taxation, and these are negotiable notes given the landlords. These notes simply pay the rent in advance, and if negotiable and transferable by indorsement, they are not within the rule. There is, therefore, only one form by which rental agreements or promises to pay can be made subject to assessment and taxation. A note of the kind is simply a demand for money which under the statute is a credit and must be listed.

Abstract books or records.

Abstract books are held to be personal property and taxable as such, notwithstanding their manuscript character, and notwithstanding the fact that they are valuable only for the information which they contain, which to be available must be obtained either by consulting the books or by taking extracts therefrom. It makes no difference as regards assessment for taxation purposes that such books are written largely in abbreviations and cipher peculiar to a particular set, which, not being understandable to all alike, requires an expert to use them.

Abstract books or records which are used in abstracting titles, or for other purposes for which they are designed, constitute property within the Kansas definition of property, and under the statute which requires all property to be listed for taxation unless specifically exempted therefrom by the constitution or the laws, must be returned by their owner at their actual value in money.

The assessing officer may have some difficulty in arriving at a correct assessment valuation of such property. The books are the foundation of a business, and a business located, and the value which results from the business as a going proposition, notwithstanding it may be in excess of the actual cost of producing the books, may be properly taken into consideration in fixing the amount of the assessment. However, one of the factors in determining such value is the cost of the service. The owner of the property, whether it be a corporation or an individual, should not be taxed upon more than a fair value, and the gross income less the cost of the service would be the main determining proposition in fixing the going-concern, the good will, or other intangible value by whatever name called, provided there is any such value in excess of the actual value of the physical property.

Not infrequently such property is really more valuable to the possessor than it would be to others, and is often considered more valuable to the owner than the price which could be obtained at a sale, and this is so because the business affords a means of livelihood possibly to the owner, or at least helps out in obtaining for him an indispensable income.

Valuation of property of this kind calls for the exercise of good judgment on the part of the assessing officer, exerted with the idea of treating such a property owner exactly in the same manner as regards assessment and taxation as all other taxpayers are to be treated under the law. Abstract books are to be listed on forms 2, 2*a* and 2*aa*, under schedule No. 23*r*.

XI.

RULES FOR VALUING PROPERTY.

The provisions of section 11183, General Statutes of 1915, are as follow:

"Each parcel of real property shall be valued at its true value in money, the value thereof to be determined by the assessor from *actual view and inspection of the property;* but the price at which such real property would sell at auction or forced sale shall not be taken as the criterion of such true value."

The effect of this requirement is to prohibit any agreement among assessors as to what shall be the assessment of real estate. It is a matter for the exercise of the individual judgment of the assessor, who is required by the law to personally visit and inspect each parcel of real property previously to his fixing the assessment. This means simply that he must exercise his own judgment as to values, being aided in arriving at his judgment by such data relating to the actual value in money of real estate in the county as he may be supplied with by the county assessor. The deputy assessor is under the direction of the county assessor and should be governed by the suggestions of the county assessor as to the assessment of lands. Very evidently, as has been heretofore said, the deputy assessor should not be allowed to take the record of the previous biennial assessment for his criterion of values. In a state where values are constantly increasing an assessment made years ago is no proper measure of values to be fixed two years thereafter.

Another provision of the same section is as follows:

"All the real property belonging to religious, literary, scientific, benevolent or charitable institutions or societies, as well as all school or university lands leased or held for profit, shall be valued at such price as the assessor believes such real estate would command in money."

This provision also requires the assessor to exercise his own judgment and to not proceed because of any agreement with other persons as to values.

Another provision reads as follows:

"Personal property shall be valued at the usual selling price in money at the place where the same may be held; but if there is no selling price known to the person required to fix the value thereon, it shall be valued at such price as is believed could be obtained therefor in money at such time and place."

In regard to this provision the deputy assessors have been many times advised that the county assessor may furnish them with papers which show the market values of all classes of animals or other products on the first day of March, and, as has been said, these market values should be taken by the assessor, diminished only by the cost of transportation from the taxable situs of the property to the market. Oftentimes the county assessor may advise the deputy assessors concerning prices obtainable at local markets, and such prices will be a better criterion of value than quoted market prices at a far-away market. Here again it is the judgment of the deputy assessor that is to control in fixing the values, and, as has been said elsewhere, the deputy assessor is not to be controlled in fixing the assessment by the suggestions of the owner of the property. Clearly an agreement as to values to be placed upon specific items or classes of property is not within the intent of the law.

Another provision:

"Current money, whether in possession or on deposit, subject to be withdrawn upon demand or within one year from the date of deposit, shall be entered in the statement at the full amount thereof."

Moneys on deposit are, therefore, to be assessed at the full amount thereof, and although the bank owes the depositor the amount deposited, yet this obligation of the bank is not a credit of the depositor which may be offset by an indebtedness of the depositor. If, however, the deposit is made in good faith for a longer period than one year, then the statute makes it a credit which may be offset by an indebtedness of the owner.

XII.

DUTIES OF COUNTY ASSESSOR.

Compliance with the direction of the Tax Commission.

First. He is to comply with the directions of the Tax Commission which relate to assessment and taxation made pursuant to section 11295, G. S. 1915, which section provides, among other things, that "the Tax Commission shall have general supervision and direction of the county assessors in the performance of their duties, and shall regulate and supervise the due performance thereof."

Attendance at meeting of county assessors called by the Tax Commission.

Second. The same section provides that the Tax Commission shall, at least once in every two years, require the county assessors of the state to meet with the Commission at the state capital on a day designated. It is the duty of each county assessor to attend all such meetings when duly notified thereof.

Reports to the Tax Commission.

Third. The county assessor shall report to the Tax Commission, in prescribed form, upon the subject of taxation whenever the Commission, in making any investigation, shall call for information. (See section 11297 and subdivision 5 of section 11299, G. S. 1915.)

Notification to county attorney of willful violation of the tax law.

Fourth. It is the duty of the county assessor to notify the county attorney of all willful violations of the tax laws, and to verify complaints and informations against persons who knowingly give a false or fraudulent list, schedule or statement, or who fail or refuse to deliver to the assessor when called for a list of the taxable property required to be listed,

or who temporarily convert any part of such property to fraudulently prevent such property from being listed, or who shall transfer or transmit any property to any person with intent fraudulently to prevent such property from being listed for taxation.

Approve vouchers of deputy assessors.

Fifth. One of the duties of the county assessor is to approve vouchers for amounts claimed by deputy assessors for services, without which approval the payment of such claims by the board of county commissioners cannot be made.

Add penalty.

Sixth. Another duty of the county assessor is to add a penalty of fifty percent to valuations made by the deputy assessor of the property of all persons who refuse to take and subscribe to any of the oaths or affirmations required, or who refuse to properly list their property for assessment.

Require assessment of all property at actual value.

Seventh. The most important duty of the county assessor is to see that all property in his county, both personal and real, whether owned by individuals, partnerships, corporations or other organizations, is assessed AT ITS ACTUAL VALUE IN MONEY. The county assessor is the central authority in the assessment of his county and of its minor subdivisions. While his power to appoint deputy assessors is limited, so that he must appoint the township trustees as such officers, yet he may remove them when personally satisfied that they have failed or neglected to properly discharge their duties by reason of incompetency or for any other cause, such removal to be permanent only when approved by the Tax Commission as provided by law. Undoubtedly this power of removal is given for the purpose of enabling him to have full authority over the assessment, in order that the same may be made as the law requires, at its actual value in money. He has *control* of the assessment. The actual work of assessment is done by *his* deputies, whom he advises, instructs and directs. In order that he may know how to advise, instruct and direct them he must become fully advised as to all requirements of the law; must have complete and full knowledge of the actual value in money of all property in his county, and this will require, on his part, unremitting study and research. He must make special investigation as to the ownership of property, in order that he may know what this and that person owns, and, in short, must himself become conversant with all facts and upon all points involved in a full and true assessment of all property in his county as required by law. Among other things, he must himself see that each person in every taxing district under his supervision makes the return the law requires. This will necessitate a complete knowledge, on his part, of what his deputy assessors are doing, which knowledge can be obtained only by his being in continual communication with them during the assessment period, by visits or in other ways that may be devised. Another reason why he must keep in touch with them is, as before said, because it is his duty to approve their claims for work honestly and faithfully done.

Assess property omitted by deputy assessor.

Eighth. Section 11309, General Statutes of 1915, confers upon county assessors all the powers of deputy assessors in relation to assessment of property, but the power is limited, in that it cannot be exercised until after the close of the assessment period, on May 1, the deputy assessors having then completed their work. In effect, the county assessor can assess only such property as has escaped assessment by the deputy assessors; and the same section gives the county assessor the power, before the returns are filed with the county clerk, to correct any informalities or irregularities in the assessment of the different taxpayers.

Information to deputy assessors.

An important part of the work of the county assessor is to devise means whereby the deputy assessors in his county may have full and complete knowledge as to the ownership within their respective districts of real-estate mortgages, chattel mortgages, judgments, tax-sale certificates or other property, as disclosed by the records in the offices of the register of deeds, probate judge, county treasurer, county clerk, or other county officer.

Deputy assessors to transmit personal-property statements to county assessor as often as required.

Section 11309, General Statutes of 1915, gives the county assessor authority to require the deputy assessors to transmit to him daily, or as often as may be desired, the personal property statements of persons assessed, and he may in his office prepare the assessment roll by copying thereon the property returned to him, as aforesaid, by the deputy assessors upon the personal-property statements. Where this practice is followed it will undoubtedly benefit the county, for the reason that the work can be done more expeditiously and more uniformly than it can be by a number of individuals who have not had experience and are not trained in that kind of work. It is believed that the counties where the county assessor adopts this system will have the assessment work completed and in the hand of the county clerk by the time the rolls are required by the county board of equalization in its work. This practice is recommended for adoption in *all* counties.

Deputy assessor to transmit leaves of field books to county assessor.

Under the provisions of section 11268, General Statutes of 1915, the county assessor is required to complete the real-estate assessment roll in his office, by transferring the assessed values thereto, for which purpose the county board is required to furnish the necessary help. The deputy assessors are to assess real estate in a field book, the leaves of which, after assessment, are from day to day to be returned to the county assessor, who transfers the values to the real-estate assessment roll. This necessitates the keeping of that roll in the office of the county assessor during the whole assessment period. It is evident that in all counties that follow the practice of binding together the real-estate and the personal-property assessment rolls the deputy assessors in the field can have neither roll, but must be required by the county assessor to send in from day to day the personal-property statements just as he does the leaves of the field book, and that both rolls must be made up in the office of the county assessor.

Delivery of real and personal assessment rolls to county clerk.

In all cases the assessment rolls, both real and personal, must be turned over, not later than Saturday preceding the third Monday in May of each year, to the county clerk, in perfect condition, all entries made, all footings made and verified, showing fully the work of the deputy assessors as revised and corrected by the county assessor.

The county assessor has no authority to change, of his own motion, any assessment that has been made by a deputy assessor. If a deputy assessor authorizes a change it may be made, and after the books are returned to the county clerk the county assessor has no further control and may not change values or divide lands where there has been an error in the assessment. All such errors must be corrected by the county clerk.

County assessor retains forms 2b and 2bb.

The personal-property statements, forms 2, 2*a*, and 2*aa*, are not to be retained by the county assessor among the files of his office, but are to be turned over to the county clerk with the assessment rolls. However, forms No. 2*b*, "Merchants' stock statement," and 2*bb*, "Manufacturers' statement of raw material, finished product, etc.," are to be retained among the files in the office of the county assessor, as they do not belong among the files of the county clerk.

Appointment and removal of deputy assessors.

Section 11308, General Statutes of 1915, requires the county assessor to appoint the trustee of each township as the deputy assessor for the township in which the trustee was elected. It should be noted that the township trustee is not *ex-officio* deputy assessor, but is made such officer by appointment; therefore, under another provision of the same section, he may be removed for cause from the office of deputy assessor without in any wise affecting his tenure of office as township trustee. The two offices are separate and distinct.

Said section provides further that "whenever the county assessor or county clerk, where the clerk acts as assessor, of any county shall conclude from any evidence satisfactory

to himself that any duly appointed and qualified deputy assessor in his county has failed or neglected to properly discharge the duties of his office, by reason of incompetency or for any other cause, the said county assessor or county clerk, where the clerk acts as assessor, shall issue a written order, and enter the same of record in his office, suspending the said deputy assessor from his said office, which order shall state the reasons for the suspension; and upon the service of any such order upon the said deputy assessor so suspended he shall at once be divested of all power as deputy assessor, and shall immediately deliver to any person appointed to discharge the duties of said office in his stead all books, records and papers pertaining to the said office."

Then there is the further provision that the county assessor may appoint another person to temporarily discharge the duties of the office of deputy assessor, and such appointment may be made permanent, provided the Tax Commission shall, in the manner provided by law, approve of the said suspension.

Townships may be divided into two or more assessment districts.

Said section provides, also that where an assessment district is too large to be assessed by one deputy assessor, the county assessor, by and with the consent of the board of county commissioners, may subdivide the territory in any township outside of cities of the first and second class into two or more assessment districts and appoint a deputy assessor for each of the districts so created, except the one to which the township trustee previously appointed deputy assessor has been assigned. The county assessor may assign to any of the subdistricts the deputy assessor who is township trustee.

And there is the further provision that at any time when the county assessor becomes convinced that the deputy assessor appointed for any single assessment district in his county cannot finish his work of assessment within the time provided by law, he may assign some other deputy assessor to assist the deputy assessor in that district, or, if no such deputy assessor is available for assignment, he may appoint another person as deputy assessor to assist in finishing the work in that district, and this appointee shall qualify as

deputy assessor the same as all other deputy assessors have qualified. This statute affords ample provision for furnishing assistance that may be required in assessing large assessment districts.

Refusal of township trustee to act as deputy assessor; appointment to fill vacancy.

It may sometimes happen that a township trustee will refuse to serve as deputy assessor after his appointment, and in all such cases, if he is not qualified by the time that it becomes necessary to enter upon the work of the assessment, the county assessor must appoint some other person to serve as deputy assessor in the district for which the township trustee was appointed. In such cases it is not necessary to make a suspension order to be approved by the Tax Commission, but the county assessor should advise the board of county commissioners in writing that because of the refusal of the particular person, naming him, to serve as deputy assessor in his assessment district, naming it, he has appointed some other person, naming him, to fill the vacancy thus created.

Administer oaths.

The county assessor now has the right, under section 11160 G. S. 1915, to administer any oath which is required from any person during the assessment period.

Instructions to deputy assessors.

A very important duty of the county assessor is to instruct his deputies upon all matters relating to values, and he has the right to advise the deputies what the values should be, but does not have the right to coerce the deputies in fixing values, nor does he have a right to change their values. In all cases where the deputy assessor undervalues property and the county assessor cannot succeed in getting the values revised to what they should be under all plain rules of valuation as fixed by the statute, the county assessor should keep track of all such underassessments and bring them to the attention of the county board of equalization, and should that board permit such underassessments to remain, when they

should be changed in order to make them conform to other surrounding assessment values and to their actual value in money as provided by the law, then the county assessor should bring the matter to the attention of the State Board of Equalization, which board has the power to raise such underassessment to the proper plane of value, and that board is always ready to use its power when it becomes necessary to do so in order to make the property of each individual stand its share of the tax burden.

It must be evident that the state board can have but little knowledge of such underassessments unless they are specifically brought to its attention, because it is not possible for the state board, within the limited time which it has at its disposal, to make the investigation necessary to enable it to determine that the real or personal property of the taxpayers of any particular district is not valued in a relatively equal manner with the property of taxpayers in general.

May require reports from deputy assessors.

The county assessor has unquestionably the right to require a report from his deputy assessors whenever he sees fit. Elsewhere it has been said that while at work the deputy assessors must, if so directed by the county assessor, report daily upon the work done by them and send to the county assessor all statements of personal property taken by them, as well as the leaves of field books when engaged in real-estate assessment.

The deputy assessors are the deputies of the county assessor and are subject to his direction. He can not know what they are doing and whether they are complying with the law, which requires the assessment of all property at its actual value in money, unless he can personally inspect their work at times or may ascertain what they are doing by their reporting to him as he may require.

This power of the county assessor is recognized by the supreme court of the state in the following language: "The statute evidently contemplates that the county assessor shall supervise the work of his deputies, the township trustees, since he is authorized to suspend them for incompetency or other cause. . . ."

RULES RELATING TO ASSESSMENT.

The statutes as interpreted by the Tax Commission authorize the Commission to state the following rules in relation to the creation of assessment districts, the appointment of deputy assessors and certain duties to be performed, to govern in all matters indicated, to wit:

Assessment Districts.

Section 11308, General Statutes of 1915, creates assessment districts as follow:

1. Cities of the first class.
2. Cities of the second class.
3. Townships, exclusive of the territory in cities of the first and second classes. This means that a city of the third class is a part of the township assessment district in which it is situated.
4. Third-class cities which, under the provisions of section 1876, General Statutes of 1915, have voted to become a township.
5. A township assessment district which is too large to be assessed by one deputy assessor may be subdivided into two or more assessment districts by the county assessor, if consented to by the board of county commissioners. A city of the third class is a part of the township assessment district and is not to be considered separately from the townships, but under this rule may be a separate district for the purpose of assessment only.

Appointment of Deputy Assessors by County Assessor.

1. Such a number of deputy assessors for a city of the first class shall be appointed as may be agreed to by and between the county assessor and the board of county commissioners.
2. Such a number of deputy assessors for a city of the second class shall be appointed as may be agreed to by and between the county assessor and the board of county commissioners.
3. The township trustee of each township outside of cities of the first and second class is to be appointed deputy assessor for the assessment district comprised by his township.

4. Should it have been agreed by and between the county assessor and the board of county commissioners that any township outside of cities of the first and second class shall be subdivided into two or more assessment districts, a deputy assessor is to be appointed for each of the districts so formed out of the original district: *Provided*, That the township trustee who is deputy assessor must be first assigned by the county assessor to one of the assessment districts into which the township is divided.

5. The county assessor shall advise the board of county commissioners in writing of all appointments of deputy assessors made, stating the assessment district for which each such deputy assessor is appointed.

6. If during the assessment period it shall be found by the county assessor that the deputy assessor of any assessment district will be unable to finish his work of assessment by the time appointed by law (May 1), the county assessor may assign to assist the said deputy assessor in his work some other regularly appointed and qualified deputy assessor who has finished his work; but if no other deputy assessor is available for such assignment, the county assessor may appoint some person as deputy assessor to assist in finishing the work of assessment in such district.

7. All appointees to the office of deputy assessor shall qualify as required by law, *i. e.*, by taking the oath of office and by filing the bond required by statute.

8. All vacancies in the office of deputy assessor are to be filled by the county assessor.

9. All appointments to the office of deputy assessor in all assessment districts must be approved by the board of county commissioners, except when the appointment is to fill a vacancy caused by the removal from office of a deputy assessor and except the appointment of township trustees as deputy assessors.

10. If any duly appointed or qualified deputy assessor has failed or neglected to properly discharge the duties of his office, because of incompetency or for any other reason, the county assessor is required to issue a written order and enter the same of record in his office, suspending said deputy assessor from his said office, which order must state the reasons for the suspension.

11. Upon the suspension of any deputy assessor from his office, as provided in the preceding paragraph, such officer will no longer be authorized to act in such capacity and must immediately deliver to the person appointed to discharge the duties of the office all books, records and papers pertaining to the office.

12. In case of any such suspension the county assessor shall appoint some person to temporarily discharge the duties of the office of deputy assessor, and such appointee must take the oath of office and file the bond required by statute in connection with the office of deputy assessor, whereupon such person will be immediately invested with the duties of the office, subject, however, to having his incumbency of the office terminated whenever the county assessor shall so order.

13. The suspension of any deputy assessor shall be reported to the Tax Commission immediately, and the Commission, or one or more members thereof, within ten days thereafter, must make a careful inquiry as to all facts upon which the suspension is based.

14. If the Tax Commission, or one or more members thereof, shall approve of such suspension, a vacancy in the office will be thereby created, and thereupon it will become the duty of the county assessor to appoint a deputy assessor to fill the vacancy.

15. If a person appointed deputy assessor shall refuse to qualify as such officer, no suspension, as hereinbefore indicated, is necessary, but in all such cases the county assessor may at once appoint a deputy assessor to discharge the duties of the office in the particular assessment district, giving due notice of such appointment to the board of county commissioners.

16. The appointment of any person as deputy assessor to fill a vacancy caused by the removal of any person from the office need not be confirmed by the board of county commissioners.

17. All original appointments of persons as deputy assessors in township assessment districts must be made by the county assessor on the second Monday in January of each year.

18. The law provides that all original appointments of persons as deputy assessors in cities of the first and second class shall be made between the second Monday in January and the second Wednesday in February of each year. As originally drawn, the statute provided that the mayor and council of the respective cities should approve all such appointments, but the legislature amended the law by making all such appointments subject to confirmation by the board of county commissioners and failed to make a corresponding change as regards the time of appointment. The reason for the provision as to the length of time within which these appointments should be made being removed by the amendment of the statute, the rule is here announced that all appointments for first- and second-class cities shall be made on the second Monday in January, at the same time that the appointments of deputy assessors in the township districts are made.

Preparation and Delivery of Real-estate Assessment Rolls.

1. The county clerk is to prepare the real-estate assessment rolls, which shall contain "a correct and pertinent description of each piece, parcel or lot of real property in numerical order as to lots and blocks, sections or subdivisions, in the respective townships or cities, as the case may be." (Section 11268, G. S. 1915.)

2. The rolls are to be completed by the county clerk and delivered by him to the county assessor at least by the 15th day of February of the even-numbered years.

3. The county assessor must then transfer the real-estate descriptions from the roll to a field book for each separate assessment district and deliver the field books to the respective deputy assessors at least by March 1.

4. The deputy assessor, periodically as required by the county assessor, must remove from the field book and transmit to the county assessor the perforated leaves of the field book covering all assessments then made.

5. The work of the deputy assessor must be finished and all leaves of the field book transmitted to the county assessor on or before May 1.

6. When leaves of the field book showing the assessments of the several tracts of real estate are received by the county assessor, he must cause the assessed value of the real estate to be entered upon the assessment roll against the tracts of real estate as respectively assessed.

7. The real-estate assessment rolls are to be retained by the county assessor in his office during the whole assessment period ending with May 1, and at no time are to be in the possession of the deputy assessors in the field.

8. The board of county commissioners is to furnish the clerical help needed to make up the rolls, or a deputy assessor may be assigned by the county assessor to aid in the making of the rolls. This authorizes the appointment of an *office* deputy assessor.

9. The county assessor is to carefully check the work and correct all errors in addition and subtraction, if any be found, and is to deliver the rolls in complete and perfect condition to the county clerk on or before the last business day preceding the third Monday in May.

Personal Property Assessment Roll.

1. The county assessor has authority to determine that the personal-property rolls shall be made up in his office, and to that end may require the deputy assessor to send to him from day to day, or otherwise periodically, as he may order, the personal-property statements as taken from taxpayers.

The Commission has no authority to require that this course shall be followed, but earnestly recommends that this be the established practice in every county.

2. If the real-estate and personal-property assessment rolls for the districts of any county are bound in one book, it is unavoidable that the course stated in the preceding paragraphs shall be followed. The real-estate roll must remain in the office of the county assessor, and the personal-property roll, being in such case inseparable from the real-estate roll, must of necessity be made by the county assessor or in his office under his direction.

3. If it shall happen that the personal-property rolls in a county are written up by the deputy assessors, they must all

be completed and returned to the county assessor on or before the first day of May.

4. All personal-property rolls which are made up by the county assessor in his office, or by deputy assessors and returned to him, are to be carefully checked by the county assessor, who is required to see "that the rolls are properly footed and have proper descriptions of property assessed."

These rolls are to turned over to the county clerk on or before the last business day preceding the third Monday in May.

XIII.

DUTIES OF DEPUTY ASSESSOR.

The deputy assessors are to do the actual work of assessment, but they are to do it under the direction and control of the county assessor. As they are the deputies of the county assessor, they must perform their duties in a manner satisfactory to him. *Without his approval they cannot receive compensation.*

By the terms of the law each deputy assessor is charged with the duty of listing and returning *all* property in his taxing district that is subject to taxation. It is his duty also to assess all such property AT ITS ACTUAL VALUE IN MONEY, and the law explicitly declares that all assessments shall be made upon *actual view of the property.* The deputy assessor will incur the penalty of the law if he assesses any property without personally inspecting the same, if it is of a kind which may be viewed.

Under the head of "Instructions as to use of forms" are mentioned several other duties of the deputy assessor which it is unnecessary to state here.

No one can properly dispute the proposition that each property owner should contribute his just proportion of taxes, and it is the duty of the deputy assessor to work without fear or favor, with the end always in view of distributing the tax burden equitably.

XIV.

EQUALIZATION OF ASSESSMENTS.

Two boards of equalization are provided by the statute, *i. e.*, the county board and the State Board.

The membership of the county board of equalization is the same as the membership of the board of county commissioners, but the functions of the board are entirely different from those of the board of county commissioners; neither board can perform the duties of the other.

Equalization by county board.

The county board of equalization is the only board in the county that has power to equalize assessments. Its authority is derived from section 11336, General Statutes of 1915. The law may be consulted, and it is not necessary to repeat it here. However, it seems proper to remark that after the first session of ten days has expired there is no longer authority to equalize values unless, for good reasons shown, the Tax Commission may, under the statute provided in that regard, authorize the county board of equalization to reconvene for the purpose either of general equalization unfinished or of equalization in special cases.

The three days' session provided for after the adjournment of the ten days is only for the purpose of hearing complaints from those who have been assessed and have been notified pursuant to the statute that it is the intention of the board to increase their assessments.

At the end of the three days' session the board is to adjourn *sine die*, and the law expressly provides that the board shall not thereafter change the assessed valuation of the property of any person or reduce the aggregate amount of the assessed valuation of the taxable property of the county.

The notice of the intention to increase is required by the statute in order that the taxpayer may have knowledge and may appear and be heard before the increase is ordered;

but if the taxpayer fails to appear there will be no opportunity thereafter for him to be heard.

The board of county commissioners has no authority whatever to reduce assessed values.

Because the duties of these two boards are entirely different it becomes very necessary that the record kept by the clerk of either board shall be the record of his particular board.

If during the ten days' session the taxpayer claiming a grievance shall be denied the relief he seeks, he may within thirty days thereafter appeal to the State Board; also, if during the three days' session, notwithstanding the protest of the taxpayer, the board shall make the proposed increase, the taxpayer, in like manner within thirty days after the decision of the board, may appeal to the State Board.

The intention of the law is that the county board of equalization shall equalize the values of the county without waiting for the presentation of grievances, so that the board will not be discharging its full duty under the law simply by passing upon the complaints of persons who may appear.

Equalization by county board.

It may be that the members of the county board in some counties will feel that they have not sufficient knowledge of land values throughout the whole county to justify them in attempting to equalize among individuals in a taxing district singly considered, and it would seem that the best aid in getting the desired information would be by having the deputy assessor of the township present for the purpose of answering inquiries which one or more members of the board might wish to have answered. In many counties it is the practice to designate days for considering certain townships, and in such case the presence of the deputy assessor may be had at the expense of one day's attendance; and it is suggested that it will be well if a program is previously arranged which will assign dates to various taxing districts for their special consideration, which days may be included by the county clerk in his published notice in the official county newspaper.

It should be apparent that the work of equalization will be lessened if in the first instance the assessment is made

equal by the deputy assessor. If this be done then the principal work of the county board will be in equalizing among the assessment districts, each district being considered as a whole for that purpose. For this reason it must be evident that if there is any opportunity for preference in the selection of deputy assessors those should be chosen who are best qualified to make equal assessments. Really in no other way can as much relative equality of burden be obtained as by an equal assessment. In the nature of things the county board, in session only ten days, has not the time necessary to enable it of its own motion to so act as to make as perfect an equalization as may be done by a careful deputy assessor in his work of assessment.

Joint action of county board of equalization and the county assessor.

Toward the close of section 11309, General Statutes of 1915, it is provided, in substance, that the county assessor and the county board of equalization, acting jointly, shall have the power in the odd-numbered year succeeding the year when real estate is assessed to reduce the assessed value fixed in the preceding year against any particular described tract of real estate to what the actual value in money of such real estate was on the first day of March of the even-numbered year in which it was assessed.

It is further provided that the county assessor shall meet with the county board of equalization at its meeting for the purpose of granting relief in such cases. This meeting, under the statute, now occurs in May, and should be fully observed by the county assessors in meeting with the county board of equalization in the said odd-numbered year. When so acting jointly there must be an agreement by the county assessor and at least two members of the board of county commissioners. It is with two authorities that this power is lodged—with the county assessor and with the county board of equalization. Consequently, they must agree, and the majority of the county board of equalization is to fix the policy of the board as concerns any action to be taken by the board and the county assessor jointly. Neither one of these authorities can act without the other.

If in equalizing among townships it is found necessary to add a percentage to any particular class of property in a given township it will not be necessary for the county clerk to give the notice provided for by the statute; but if the board upon its own initiative during the first ten days' session finds it necessary to raise values of certain taxpayers singly, and not as a whole by a percentage, the notice required by the statute must be given to all taxpayers whose assessment it is proposed to increase.

It will be well if all deputy assessors will advise all taxpayers within their respective districts as to their rights under the law and as to the requirements which must be complied with in order to obtain relief from grievances.

Assessment values which give the base upon which to extend tax levies.

The careful attention of the taxing authorities of the county is called to the fact that no assessed values should be placed upon the tax rolls until after the local authorities have been advised by proper certificate of the action taken by the State Board of Equalization. Notwithstanding this has been suggested many times, it has not always been observed, with the result that in some counties after the values had been placed upon the tax rolls it became necessary to change them because of action taken by the State Board of Equalization in discharging its duty as required by positive requirement of the law. The matter is now again called to the attention of the county officers, so that if extra work is caused by reason of proceeding contrary to what is here notified, the fault will be with the local officers and not elsewhere. The importance of observing this requirement will be apparent from a reading of a portion of section 11304, General Statutes of 1915, as follows:

"Whenever the valuation of any taxing district, whether it be a county, township, city, school district or otherwise, is changed by the State Board of Equalization, the officers of such taxing district who have authority to levy taxes are required *to use the valuation so fixed by the State Board as a basis for making their levies for all purposes.*"

If the statute quoted is not observed in every particular there will arise a just ground for contesting tax levies made upon values which have not been changed in accordance

with directions from the board of equalization, whether local or state.

The whole matter of fixing values is resolved into the proposition that the county board of equalization should exercise great care in equalizing the values of property in their counties at the actual value in money as by law required, as by so doing they will avoid the necessity of changes being made by the state board.

It is hardly necessary to say, that if values are placed upon the tax rolls which do not correspond with the values as finally equalized by the state board the rolls must be changed either by erasures or interlineations.

Often reports from counties which are preliminary to the state equalization are delayed much beyond the limit placed by law upon the time within which they are to be made, with the result that the state equalization cannot proceed and the state board is embarrassed and delayed in its state work. Not infrequently information has been sought by particular counties to the effect that no changes would be made by the state board in the particular county, but clearly this information can never be given until the whole state is properly reported and rounded up and the changes made necessary by inequalities can be determined, the Commission cannot advise any county of what will be the ultimate condition in that county. So inquiries of the kind will avail nothing.

XV.

ASSESSMENT OF OMITTED PROPERTY.

Four sections of the statutes relate to the assessment of personal property omitted from the tax roll and these will be briefly discussed:

First. Section 2680, General Statutes of 1915 (11331*a*, T. C. C.), which was enacted as section 53 of chapter 25, General Statutes of 1868. This section makes it the duty of the county clerk to assess any property which the assessor failed to assess, and makes it the duty also of the county treasurer to notify the county clerk of any such property which may come to his knowledge. It will be noted that this section is general, and therefore includes all property, both real and personal.

Second. Section 11331, General Statutes of 1915, which was enacted as section 70, chapter 34, Laws of 1876. This statute authorizes the county clerk or the board of county commissioners to proceed, as indicated by the statute, in order to get property upon the roll which escaped the assessor when making the regular assessment.

Third. Section 11326, originally enacted as section 60 of chapter 34, Laws of 1876. This section has reference particularly to property which was omitted from the tax roll in the year preceding the current assessment, and provides that the assessor shall list and value such property at twice its real value, the double assessment being intended as a penalty as will hereinafter appear.

Fourth. Section 11309, General Statutes of 1915, enacted as section 6, chapter 251, Laws of 1909. That part of the section which concerns this discussion reads as follows:

"The county assessor shall have all the rights and powers given by law to deputy assessors for the examination of persons and property and the discovery and assessment of property and making lists and returns of the same: *Provided*, That he shall make no assessment of property which is required by law to be assessed by the deputy assessor until after the close of the assessment period, after which time he may assess any and all property which is found to have been omitted from the assessment roll of any deputy assessor during the assessment period."

The first and second sections above referred to were before the supreme court for consideration in the case of *Douglas County v. Lane*, reported in 76 Kansas, at pages 12 *et seq.* In the opinion the court referred to the fact that it was unnecessary to say whether or not section 2680, above referred to, was repealed by section 11331, the second section referred to, but proceeded upon the theory that section 11331 was the more comprehensive statute and last in order of enactment, and that the limitations upon the county clerk therein prescribed should govern. Section 11331 provides for the correction of taxpayers' statements already made and filed with the county clerk, and as well for the placing upon the roll personal property omitted when no statement has been made by the owner; and the important thing to be noted as to this section is that it requires such proceedings as will give the taxpayer notice of the inquiry which is to be made; and the court decision in that case establishes the rule that in so far as getting property on the roll that was omitted from the current assessment roll is concerned, or as regards an attempt to correct personal property statements already made and filed with the county clerk, the proceedings should be under said section 11331, whether undertaken by the county clerk independently, or by the board of county commissioners, and in every such case, therefore, the five days' notice provided by the section must be given.

Another rule to be observed in assessment is made clearly to appear by the said court decision, *i. e.*, that real estate omitted from the tax roll may be placed upon the roll for all the years that it has escaped, subject, however, to the limitations placed by section 11277, General Statutes of 1915, while omitted personal property can be placed upon the roll for only one year of omission.

The provision of the third section above referred to, *i. e.*, 11326, in relation to a double assessment of omitted personal property by way of a penalty for the failure of the owner to list the same for the year of the omission, was given a meaning by the court in the said decision, in the following language: "This inference is strengthened by the fact that personalty is required to be assessed at double its real value if it is found to have escaped taxation for the last preceding year, while no such *penalty* is proposed if it has been omitted from an earlier tax roll." This language gives the authority for the

first statement made above regarding this section that the double assessment is by way of a penalty.

The fourth section above referred to, 11309, needs but little discussion. The county assessor, as regards omitted property, is given all the power necessary to get the property upon the roll within the time limited by the statute that is given by the other sections to the deputy assessor, the county clerk or the board of county commissioners. Of course, any such assessment made by the county assessor must be made exactly as the deputy assessor is required to list and value property; that is, the county assessor must take a statement from the person assessed and must doubly assess the property by way of penalty for the failure of the owner to list the same for taxation if omitted from the roll for the year preceding the current year; but the penalty does not apply to property omitted for the current year, unless such assessment is not made until in the year succeeding the current year. It should always be remembered by any assessing officer that the owner of property must be duly notified of any assessment placed against his personal property. Every citizen whose property is placed upon the roll must have knowledge of the valuation fixed by the assessing officer, so that if he feels aggrieved he may have opportunity to endeavor to have his grievance remedied.

It is provided in section 11331 that all such omitted property must be placed upon the tax roll ". . . before the final settlement with the county treasurer . . ." and the supreme court, in the case of *State v. Holcomb*, reported in 81 Kansas, at page 879, holds that the time within which the property may be put upon the roll does not expire until the October settlement with the county treasurer in the year succeeding the year when the property was omitted; in other words, personal property omitted from the assessment and tax rolls in 1915 may be assessed and taxed at any time previous to the October settlement with the county treasurer in 1916. A syllabus of that case reads as follows:

"Taxable property not listed for taxation nor returned by the assessor may be added to the tax rolls by the county clerk after the settlement with the county treasurer in October of the year when the assessment should have been made and after the tax rolls have been turned over to the county treasurer."

The question at issue in the case last cited was whether the county clerk could be required to take the action indicated, and it follows that any other officer authorized to assess omitted property must do so within the time limit as laid down by the court. This means, in addition to the county clerk, the county assessor or the board of county commissioners.

XVI.

STATUTORY PENALTIES.

For the information of all concerned, penalties provided by the statutes for failure to observe the provisions of the law of assessment and taxation are now briefly set forth:

Section 11160, General Statutes of 1915, has been referred to under another head in this pamphlet, but for the purpose of collectively showing all penalties it is now again stated that the *deputy assessor who "shall knowingly and willfully fail to require every person of full age and sound mind in his taxing district, whether owning property or not, to take and subscribe to the oath"* provided by the law, upon conviction for each such failure in a court of competent jurisdiction, shall be fined in any sum not less than ten or more than twenty dollars.

This section of the law is so definitely stated and is so plain in its meaning that comment is unnecessary.

Section 11257, General Statutes of 1915, charges any person with being guilty of a misdemeanor who shall make a false report to the deputy assessor in regard to the number or sex of dogs owned, harbored and kept by him, and upon conviction thereof subjects such person to a fine of not more than one hundred dollars.

The deputy assessor should call the attention of this provision of the law to any person who has dogs about his home or other place.

Section 11281, General Statutes of 1915, relates to the duties of the county clerk and the register of deeds with reference to the treatment of mineral reserves for the purpose of assessment and taxation, and provides that either of those officers who shall knowingly and willfully fail in performing the duty imposed by the law in that regard shall forfeit his office, and that upon the petition of the county attorney or attorney-general he shall be removed therefrom by summary proceedings.

Section 11303, General Statutes of 1915, prescribes two offenses, and the penalty for each, respectively, as follows:

First. If any person shall knowingly answer any question or interrogatory *falsely* which has been submitted to him by the deputy assessor for answer "he shall be deemed guilty of perjury, and upon conviction shall be sentenced to the penitentiary to hard labor for not less than one nor more than five years. . . . "

Second. If any person shall willfully *refuse* to answer any questions and interrogatories that have been prescribed by any proper authority or by the statute to be answered under oath, and shall refuse to take and subscribe the oath annexed thereto, "he shall be deemed guilty of a misdemeanor," and upon conviction shall be fined not less than one hundred nor more than one thousand dollars, or by imprisonment in the county jail for not less than six months nor more than twelve months, or by both such fine and imprisonment, at the discretion of the court.

Section 11315, General Statutes of 1915. The penalty prescribed by this section is imposed upon any *county* or any *deputy* assessor who makes himself subject thereto. The penalty is a fine of not less than twenty nor more than one hundred dollars for willful neglect or refusal to perform in whole or in part the duties required by law, such failure or refusal being deemed a misdemeanor.

Section 11318, General Statutes of 1915. The penalties of this section apply wholly to persons or corporations and are as follow:

First. If a false or fraudulent list, schedule or statement of property shall be given knowingly to the deputy assessor by any person or corporation having property to list, when called upon for that purpose; or

Second. If he or it shall temporarily convert any part of such property into property not taxable, for the fraudulent purpose of preventing such property from being taxed, or in an attempt to evade the payment of taxes thereon; or

Third. Shall transfer or transmit any property to any person with an intent to avoid taxation; either of such attempts to evade taxation is stated by the law to be a misdemeanor, and the penalty imposed is a fine of not less than fifty nor more than five thousand dollars; and there is the further provision that a fee of twenty-five dollars be allowed and charged in the case for the benefit of the county attorney on account of his services, which attorney's fee is to be taxed as costs.

Section 11320, General Statutes of 1915. This section relates also to property owners owning property which the law requires them to list for taxation, and provides that if any person shall refuse to make out and deliver to the proper deputy assessor the statement required by law, or shall refuse to take and subscribe to any of the oaths or affirmations required, he does so subject to the deputy assessor listing the property of the person so refusing, and in addition to the value so listed a penalty of 50 percent of the value as listed is to be added by the county assessor.

Section 11321, General Statutes of 1915. This section provides a penalty for refusal to give evidence when required to do so by the deputy assessor, and applies to any person except bank officers as to the contents of bank records only. Should a person refuse to be sworn or to be affirmed, or, if after having been sworn or affirmed he shall refuse to answer formal interrogatories prepared or any other questions asked touching the subject of inquiry, such person upon conviction shall be fined in any sum not more than five hundred nor less than ten dollars, to which may be added imprisonment in the county jail not exceeding six months. As a part of the costs of the case any fee usually allowed the county attorney in prosecuting misdemeanors shall be included.

Section 11325, General Statutes of 1915. This section has been quoted in full under the head "Statutes," on page 5 of this pamphlet. It is so comprehensive as to embrace not only all officers having to do with assessment and taxation, but, as well, all owners whose property should be listed with the assessor. Any violation of the section, willfully or knowingly done, makes the offender guilty of a misdemeanor and the punishment is a fine in any sum not exceeding five hundred dollars or imprisonment in the county jail for a period not exceeding

ninety days, and in addition to either one of the other penalties an officer so offending shall forfeit his office.

Section 11326, General Statutes of 1915. This section has been referred to in part XV of this pamphlet and relates to the double assessment of personal property to be made by the assessor which was omitted from the tax roll of the year preceding the current year of assessment. Any property that was subject to taxation in a given year, which was not listed for taxation, is subject to a double assessment by the assessor when making his assessment in the succeeding year, the double assessment being by way of penalty.

Section 11330, General Statutes of 1915. This section provides a penalty of 50 percent to be added by the county clerk in all cases of property returned by the assessors which the owner or his agent refused to list, or to the correctness of a personal-property statement to which the owner or agent of the property refused to swear.

The penalty provided by this section is in terms similar to that provided by section 11320, as above shown, but the latter section was antedated in enactment by this section 11330. Section 11320 is, in a way, cumulative, but it is here advised that section 11330 is more particularly to be considered in connection with section 11331, which provides for the correction of false statements and for the listing of property by the county clerk or the board of county commissioners when no personal-property statement has been made by the owner.

The 50 percent penalty provided by sections 11320 and 11330 may appear to be in conflict with the 100 percent penalty provided by section 11326, but a careful reading will show that they are not in conflict, 11320 and 11330 relating more particularly to cases where the property owner refuses to answer questions under oath and refuses to list property, while 11326 relates to property which during the work of assessing for the current year the deputy assessor shall find was omitted from the tax roll of the preceding year, no matter what the reason.

Section 11340, General Statutes of 1915. This section provides that a sum of one hundred dollars as penalty is to be

recovered, in the manner indicated, from any county clerk who "shall refuse or neglect to prepare an abstract of the assessment roll of his county and forward the same to the Tax Commission, as required by law."

The section preceding the penalty section limits the time when this abstract shall be forwarded to on or before the first day of July.

This section was enacted when the code was first enacted, but was amended in 1909 by substituting the Tax Commission for the officer to whom the law originally prescribed the abstract should be sent.

Section 11387, General Statutes of 1915. The penalty prescribed by this statute relates to the violation of the provisions of the law which limits tax levies, and any officer of any taxing district or the county clerk may become subject to the penalty which may be charged for a misdemeanor under the provisions of the section, which shall not be less than one hundred nor more than five hundred dollars. Any such officer also subjects himself to removal from office by civil action.

Section 11343, General Statutes of 1915, relates wholly to the refundment of taxes or to the abatement or cancellation of taxes, and provides that any board of county commissioners or other officer of the county who discharges, releases, remits or commutes taxes except as permitted by statute shall be himself subject to a requirement to pay the amount of the taxes into the county treasury which has been so refunded or abated.

XVII.

ASSESSMENT OF AUTOMOBILES.

At the conference with county assessors held in December, 1917, it was suggested that an attempt would be made to devise a schedule of values which might properly serve as a general guide in the assessment of automobiles.

The question has had careful consideration and as there seems to be no better indication of value than the values for which insurance may be obtained upon this kind of property, and as the result of a study of the question, the following suggestions are made which if generally followed will result in a uniform valuation over the state for this kind of property.

CLASSIFICATION.

All automobiles to be classified, taking as the base the original list price when new, excluding cost of additional equipment and extra bodies.

The following classification is suggested:

Class A.	Class B.	Class C.	Class D.	Class E.
$3,500 and up.	$2,500 to $3,499	$1,400 to $2,499	$800 to $1.399	$799 and under.

All automobiles of the different classes as above suggested may well be assessed at percentages of the classification values as now indicated:

This and Next Year Models.

(Cars bought new not more than six months prior to March 1.)

Class A—85% of classified list price.
Class B—80% of classified list price.
Class C—70% of classified list price.
Class D—60% of classified list price.
Class E—60% of classified list price.

Year Before Last Models.

(Cars bought new more than eighteen months but not more than thirty months prior to March 1.)

Class A—60% of classified list price.
Class B—50% of classified list price.
Class C—50% of classified list price.
Class D—40% of classified list price.
Class E—40% of classified list price.

Three Year Old Models.

(Cars bought new more than thirty months but not more than forty-two months prior to March 1.)

Class A—50% of classified list price.
Class B—40% of classified list price.
Class C—40% of classified list price.
Class D—30% of classified list price.
Class E—30% of classified list price.

Four Years and Older Models.

(Cars bought new more than forty-two months prior to March 1.)

Class A—40% of classified list price.
Class B—30% of classified list price.
Class C—30% of classified list price.
Class D—30% of classified list price.
Class E—20% of classified list price.

Following are illustrations of the application of the method suggested:

CLASS A.—*This and Next Year Models.* Car bought new not more than six months prior to March 1; list price, say $4,000; assessable value 85 percent, amounting to $3,400.

CLASS B.—*Year Before Last Model.* Car bought new more than eighteen months but not more than thirty months prior to March 1; list price somewhere between maximum and minimum classified valuation, say $3,000; assessable value 50 percent, or $1,500.

CLASS C.—*Three Year Old Model.* Car bought new more than thirty months but not more than forty-two months prior to March 1; list price somewhere between maximum and minimum classified rate, say $2,000; assessable value 40 percent, or $800.

CLASS D.—*Four Year or Older Model.* Car bought new more than forty-two months prior to March 1; list price somewhere between maximum and minimum, say $1,000; assessable value 30 percent, or $300.

CLASS E.—*Four Year or Older Model.* Car bought new more than forty-two months prior to March 1; list price somewhere between maximum and minimum, say $500; assessable value 20 percent, or $100.

The method of assessment above suggested is not presented as an arbitrary proposition which is to absolutely control deputy assessors in fixing the assessment values of this kind of property. The suggestions are offered in the same sense that the proposition was presented many years ago of taking as a guide in the assessment of livestock, the market values as of March first. The method pointed out is in no sense meant as an attempt to control the judgment of the deputy assessor in fixing values. The plan offered is one which if approximately followed throughout the state will result in a state-wide valuation of this class of property in a manner closely approaching equality and substantially at actual value in money.

XVIII.

THE FISCAL YEAR OF POLITICAL SUBDIVISIONS.

The Tax Commission has been asked many questions regarding what is the fiscal year of a given political subdivision, and in order to provide a ready reference for answer to all such questions it is thought best to here state the rule as understood by the Commission. The question was raised before the supreme court of Kansas in the case of *Bank v. Reilly*, reported in 97 Kansas, at pages 817 *et seq.*

A well-considered opinion of the court delivered by Justice Dawson, as the Commission views it, authorizes the following conclusions, such conclusions being stated where expedient in the language of the court:

1. "There is no general uniformity throughout the state touching the beginning of the fiscal year. A fiscal year is simply the year, embraced in the annual term, for the opening and closing of fiscal accounts."

2. "In the state's own fiscal affairs the fiscal year begins on July 1."

3. "In first-class cities under the old form of government the fiscal year begins on April 1."

4. "In first- and second-class cities under commission government the fiscal year begins on January 1."

5. In Leavenworth county a special law which provided that for that county the fiscal year should begin with the second Tuesday of October, the court held was controlling, and held expressly that while some portions of that statute, *i. e.*, those conflicting with later acts, were impliedly repealed, the provision of the act relating to the fiscal year not being in conflict with any later statute, is still binding.

6. In referring to the second Tuesday in October as the commencement of the fiscal year for Leavenworth county, there is in connection these words of the court: "Whether this is true of the counties of this state generally may not have to be determined here," and although the court does not decide in terms when the fiscal year of all counties of the state

begins, nevertheless the decision warrants the conclusion that the fiscal year of all counties in the state begins with the second Tuesday in October in each year.

The court of appeals had construed what is now section 2872 of the General Statutes of 1915 to mean the calendar year, but the supreme court squarely overrules the two opinions of the appellate court so holding. In its opinion denying a petition for a rehearing in the case under consideration, the supreme court held that later acts had not impliedly repealed certain parts of said section 2872 of the General Statutes of 1915, and among them had not repealed that portion of the act which required the board of county commissioners of each county in the state to levy in each year . . . a county tax sufficient to defray all county charges and expenses incurred during such year . . .

Reference is made in the original opinion to the fact that the last quarterly fiscal statement of the county treasurer is in October at the close of each year of his official term; that the new treasurer, where there is a successor, takes his office on the second Tuesday in October immediately following the close of his predecessor's official term, and then the court says: "This is simultaneous with the close of the fiscal year for which his predecessor is required to render his official account."

The opinion clearly justifies the inference that the fiscal year of all counties in the state begins with the second Tuesday of October in each year.

7. As to other political subdivisions, including cities of the third class, there is nothing in the opinion in respect of their fiscal years, but the general proposition stated by the court holds good, as given above, that "the fiscal year is simply the year embraced in the annual term for the opening and closing of fiscal accounts."

INDEX.

A.

PAGE

Abstract of personal property assessment, Tax Commission Form 1*a* 76
by county assessor, 1*b* 76
Abstract books 91
Assessment and other forms or blanks 53
general rules to be observed 83
Assessment of lumber stocks 64
elevators 67
merchants and manufacturers 63
commencing business in Kansas between March 1 and September 1, 70
branch business 71
banks, and loan and investment companies, Tax Commission Form No. 8 73
life insurance companies 73
equalization of 110
omitted property 115
shares of stock, corporations—Form 2*a* 61
wheat in storage at elevators 68
rules relating to 103
districts 103
values which give the base upon which to extend tax levies 113
of automobiles 125
Appointment of deputy assessors by county assessor 103
Average value per acre, farm land, how determined 89
Agreements, rental 90
Animals less than six months of age exempt 10
situs for taxation purposes March 1 19
temporarily without the state March 1 20
Administrator—situs for assessment, property in hands of 22
Automobiles—assessment of 125
Actual view—deputy assessor should actually view real and personal property before fixing value 83

B.

Banks—exempt assets of banks not to be deducted from assessment of bank shares of stock .. 13
shares of stock not credits 18
situs for assessment purposes, shares of stock 21
shares of stock assessed by deputy assessors 34
not assessed upon assets 37
syllabus supreme court decision First National Bank v. Roger Moon *et al* 38
shares of stock to be assessed 39
assessment of real estate 39
value real estate to be deducted—state banks 39
value real estate to be deducted—national banks 41
date of acquirement of real estate 41
real estate and furniture and fixtures assessable to institution 41
how returned for assessment 41
inspection of books 42
organization subsequent to March 1 42
supreme court decision—national bank 43
real-estate value of which year is to be deducted 43
assessment of deposits 44
postal savings deposit 44
shares stock issued by foreign corporations 44
Blanks—principal ones used in assessment 53
Branch business, assessment of 71
Benevolent association—invested fund not exempt 8
etc., exclusive use of property exempts 9

PAGE

Bonds issued by lodges for buildings taxable 12
state, county, cities, townships or school districts not taxable 12
Building bonds of lodges taxable 12
Building and loan association—shares of stock not credits 18
situs for taxation shares of stock 21
provisions of law under which assessed 45
assessment of those included in first class 46
second class 47
rural credit shares discussed 48
Buildings, parts of which are under different ownerships 88
Business property—situs for taxation March 1 19
situs, discussed and defined 21

C.

Car and other companies assessed by State Board of Railroad Assessors 34
Charitable association—invested fund not exempt 8
etc., exclusive use of property exempts 9
Cemetery-lands and lots used exclusively as graveyards exempt 12
Credits do not include obligations secured by lien on real estate 17
amount owing the state for school-land purchased may be offset 18
shares of stock not credits 18
bank shares not credits 18
building and loan association shares of stock not credits 18
time deposit for more than one year is a credit which may be offset by debits; time deposit for less than one year not a credit 18
situs for taxation March 1 19
wheat delivered to elevator, payment to be made at some future time 22
deposits in banks for period one year or less cannot be offset by indebtedness 18
schedule No. 18, personal property statement 57
of mutual life insurance companies may not be offset by the contingent liability to policyholder 18
Cities—evidences of indebtedness not subject to taxation 12
Collateral security property pleges for an indebtedness owing 30
Contracts, sale of real estate, cases decided by supreme court 31
indemnity 89
Corporations—owner shares of stock cannot offset such shares by indebtedness 18
assessment of property 34
in general assessed by local authorities 35
assessment of shares of stock 49
in general 48
classified—first class, domestic 48
second class, foreign, with principal office in Kansas 48
third class, those having office outside the state 51
foreign should be assessed on intangible as well as tangible property 51
to be assessed by the use of form 2*a* 49
County assessor—statistical report of personal property, form 1b 76
nontaxable 77
duties of 95
compliance with direction of the Tax Commission 95
attendance at meeting of county assessors called by the Tax Commission 95
reports to the Tax Commission 95
notification to county attorney of willful violation of the tax law 95
approve vouchers of deputy assessors 96
add penalty 96
require assessment of all property at actual value 96
assess property omitted by deputy assessor 97
information to deputy assessors 97
deputy assessors to transmit personal property statements to county assessor as often as required 98
deputy assessor to transmit leaves of field book to county assessor 98
delivery of real and personal assessment rolls to county clerk 99
county assessor retains forms 2b and 2b*b* 99

PAGE

County assessor—appointment and removal of deputy assessors 99
townships may be divided into two or more assessment districts 100
refusal of township trustee to act as deputy assessor; appointment to fill vacancy 101
administer oaths 101
instructions to deputy assessors 101
may require reports from deputy assessors 102
appointment of deputy assessors 103
acting jointly with county board of equalization 112
Counties—evidences of indebtedness not taxable 12
College—personal property consisting of animals not exempt 10
Contingent liability of mutual life insurance companies cannot be set off against credits 18
Crops—not assessable as personal property while growing 89

D.

Decision—product of manufacturers on hand March 1 6
property used exclusively for state, county, municipal, literary, educational, etc., exempt 8
mutual benefit association not exempt 8
invested fund charitable or benevolent association not exempt 8
ownership not the test of exemption 8
indirect use does not entitle property to exemption 9
Masonic Grand Lodge property not exempt 9
Odd Fellows Lodge property not exempt 9
charitable uses if exclusive 9
fraternal beneficiary association property not exempt 9
property used as a literary hall and dormitory exempt while so used 9
termination of use for excepted purposes 10
situs for taxation livestock 13
situs for taxation of debts due a resident of Kansas 21
cases relating to real-estate contracts 31
bank shares not credits 18
building and loan shares not credits 18
contingent liability of mutual life insurance companies to policyholders cannot be set off from credits 18
shares of stock foreign corporation outside state must be listed in Kansas 52
inside state not to be listed in Kansas 52
Debits—*bona fide* indebtedness may be deducted from aggregate of credits 17
cannot be offset against property of any kind except credits 17
Deposits in banks, assessment of 44
postal savings, should be listed by depositor 44
Deposit, time, for period of one year or less not a credit 18
more than one year a credit 18
in a current account not a credit 18
Deputy assessor to advise and instruct taxpayer in filling in personal property statement 86
failure to administer oath 85
should actually view property before fixing value 83
not controlled by the valuations listed by individual 86
duties of 109
Dormitory—property exempt while so used 9
Dogs—subdivision 24, personal property statement 60
Duties of county assessor 95
deputy assessor 109

E.

Elevators—situs for assessment wheat stores 22
assessment of 66
wheat in storage 68
Express companies—personal property assessed by Tax Commission 34
gross receipts determined by Tax Commission 34
Exemptions—property used exclusively for state, county, municipal, literary, educational, etc., ... 8
test is use, not quantity or ownership 8
fraternal beneficiary association property not exempt 9

PAGE

Exemptions—literary hall and dormitory ... 9
animals less than six months of age ... 10
reserve or emergency funds fraternal societies ... 10
G. A. R. property ... 10
when use which permitted exemption ceases ... 10
lodge funds other than reserve or emergency not exempt ... 11
lands and lots used exclusively as cemeteries or graveyards exempt ... 12
parsonage occupied by pastor exempt ... 13
Executor—situs for assessment purposes, property in hands of ... 22
Exempt assets of banks not deductible from value of shares ... 13
Emergency funds of fraternal societies exempt ... 10
one that is not permanently invested for income ... 10
Equalization of assessments ... 110

F.

Fiscal year of political subdivisions ... 126
Fraternal beneficiary certificates—exempt to beneficiary while in bank ... 13
association property not exempt ... 9
societies—reserve or emergency funds exempt ... 10
insurance—moneys paid to a beneficiary exempt while deposited in a bank ... 13
Family exemption of $200 ... 10
Farming implements—situs for taxation March 1 ... 19
Farm products—not assessable as personal property where growing ... 89
lands, average value per acre, how determined ... 89
Foreign corporations—where principal office is within state ... 51
without state ... 51
assessed on intangible as well as tangible property ... 51
owned intangibles not exempt unless they have a business situs in Kansas ... 14
Forms—principal ones used in assessment ... 53
Tax Commission No. 2, personal property statement ... 54
1*a* and 1*b* contrasted ... 78
Form 2*aa*, corporations or partnerships engaged in the business of merchandising ... 61
2*b*, merchants' stock statement ... 63
2*bb*, manufacturers' statement raw material, finished product, etc ... 63
2*d*, oath of person having no personal property ... 80
2*e*, information relating to mortgages ... 81
3*a*, field book—real-estate assessment not in cities ... 81
4*a*, field book—real-estate assessment in cities ... 81
4*c*, notice real-estate assessment to taxpayers ... 82
11, abstract of assessment roll ... 82
1, personal property assessment roll ... 74
1*a*, abstract of personal property assessment ... 76
1*b*, report of county assessor, actual value in money, all personal property ... 76
1*b*, value nontaxable property ... 77
1-*i*, summary of assessment of real estate to be reported by county assessor ... 79
3, assessment roll, real estate—townships ... 79
4, cities ... 79
5, tax roll, real estate—townships—cities ... 80
6, cities ... 80
7, personal property ... 80
Funds of lodges at interest, not reserve or emergency funds and not exempt ... 11

G.

G. A. R. property exempt ... 10
General rules to be observed in assessment ... 83
Gross receipts of express companies determined by Tax Commission ... 34
Guardian—situs for assessment purposes property of wards ... 22

H.

Homestead improvements exempt ... 12

I.

Intangibles—foreign-owned nontaxable, unless they have a business situs in Kansas ... 14
Invested fund of charitable or benevolent association not exempt ... 10

PAGE

Improvements erected on land homesteaded are exempt ... 12
Improvements on leaseholds ... 29
Indirect use of property will not exempt from taxation ... 9
Insurance companies—life ... 72
Indemnity contracts ... 89

J.

Judgments owned by a nonresident not taxable unless a business situs has been acquired ... 14
subdivision 23*i*, personal property statement ... 59
Joint action of county board of equalization and the county assessor ... 112

L.

Leaseholds—improvements on ... 29
Livestock—situs for taxation purposes ... 19
situs temporarily without the state March 1 ... 20
Literary hall and dormitory—exempt while so used ... 9
Life insurance companies, assessment of ... 72
policy—cash surrender value not taxable ... 12
proceeds of, to beneficiary while in bank are exempt ... 13
Loan and investment companies—shares of stock ... 21
assessed by deputy assessor ... 34
how assessed ... 37
returns to be made on Tax Commission Form No. 8 ... 73
Lodge building bonds taxable ... 12
Lodge funds taxable except reserve or emergency funds ... 11
Loan and investment companies—assessment statement ... 73
Lumber stock—assessment of ... 65
Lumber merchant—method of arriving at average quantity of merchandise on hand for the year ... 66
Location for assessment purposes in general, to be assessed in the district where located March 1 ... 19
moneys and credits ... 19
business property ... 19
animals and farming implements ... 19
temporarily outside of the state ... 20
debts due residents of Kansas ... 21
shares of stock of banks or loan and investment companies ... 21
property in hands of an executor, etc ... 22
wheat stored in elevator ... 68
property of public officers ... 23
mutual fire and tornado insurance company ... 23
transient personal property ... 24
party removing from one county to another ... 26
personal property moving through a county ... 26
stoppage of property in transit ... 26
temporary destination ... 27
property stored while in transit ... 27
property of wards ... 22

M.

Masonic Grand Lodge—property not exempt ... 9
Manufacturing plant—where pipe lines are connected, method of assessment ... 36
Merchants' stock statement, form 2*b* ... 63
Manufacturers' statement raw material, finished product, etc ... 63
lumber merchant ... 64
commencing business in Kansas between March 1 and September 1 ... 70
assessment of branch businesses ... 71
Merchandise sold after March 1 ... 30
Mineral reserve, assessed as real estate ... 28
Moneys belonging to lodge ... 11
paid by an insurance company to a beneficiary exempt while in a bank ... 13
Money—situs for location March 1 ... 19
assessment of deposits in banks ... 44
schedule 17, personal property statement ... 56

PAGE

Mortgages—schedule 23*j*, personal property statement 59
Mutual benefit association not exempt from taxation 8
Municipal indebtedness—owners not required to list for taxation 12
Mutual fire and tornado insurance company property 23
life insurance company cannot offset its credits with contingent liability to policyholder 18

N.

Nonresidents—judgments, tax-sale certificates and other intangibles owned by nonresidents not taxable unless they have acquired a business situs 14

O.

Oath—penalty for failure to administer 85
Odd Fellows Lodge—property not exempt 9
Owner should value the property which he lists for taxation 84
he given knowledge of his assessment if increased by deputy assessor 84
Ownership not the test of exemption 8
where changed on March 1 30
stock of merchandise sold after March 1 30
joint buildings 88
Oil and gas pipe lines, assessment of 35
Omitted property, assessment of 115
Obligation taxable to owner although secured by assignment of life insurance policy 12
of state, county, city, township or school districts exempted from taxation 12

P.

Parsonage exempt so long as it is occupied by the pastor as a residence 13
Personal property statement—provision not made by legislature in terms for listing all classes of property 6
refusal of party to make out 84
belonging to a college, such as animals, not exempt 10
exemption to family 10
of a homestead occupant not exempt 12
in general to be assessed in the assessment district where located March 1 19
in general is listable to the owner or the representative of the owner 30
assessment roll—Tax Commission Form 1 74
abstract—Tax Commission Form 1*a* 76
statistical report of county assessor—Form 1*b* 76
statement—Tax Commission Form 2:
changes made in schedule numbers 55
verification—correct work 60
assessment roll—preparation and delivery of 106
Schedule 17, moneys on hand; on deposit; also invested in government bonds 56
18, credits 57
23*h*, real-estate contracts 58
23*i*, judgments 59
23*j*, mortgages 59
23*x*, interests in telephone companies to be assessed by the deputy assessor 59
23*y*, all property not specially provided for 56
24, dogs 60
statement—Tax Commission Form 2*a*, corporations 60
who to make 83
every person of full age and sound mind, male or female 85
husband and wife should be listed separately 86
taxpayer must himself fill in personal property statement 87
interrogatories to be answered by taxpayer 87
after turned in by deputy 87
penalty for refusal to furnish statement 84
Personalty to be listed on corporation statement Form 2*a* 61
Penalty—Refusal to make out personal property statement 84
failure to administer oath 85
Penalties provided by the statutes 119

PAGE

Pipe-line companies—first, second and third class 36
assessed by State Board of Appraisers if intercounty 34
assessed by county assessor if intracounty 34
Political subdivisions—fiscal year 126
Postal savings deposits should be listed by depositor for taxation 44
Property subject to taxation 6
defined 6
no provision in terms by legislature for listing 6
exclusively used for charitable, etc., purposes is exempt 9
to be exempt when the use ceases which permitted the exemption 10
brought into the state between March 1 and September 1 14
unless in the form of credits not offset by debits 17
belonging to wards, situs for assessment purposes 22
in hands of an executor, etc., situs for assessment purposes 22
mutual fire and tornado insurance companies 23
transient personal 24
public officers 23
pledged, merchandise sold after March 1 and different ownerships on March 1 30
assessable to whom—real estate, mineral reserves 28
improvements on leaseholds, personal property in general 29
party removing from one county to another, assessment of 26
moving through a county 26
stoppage in transit 26
contingent removal 27
temporary detention 27
in storage 27
corporations, assessment of 34
Policy, life insurance, surrender value not taxable 12
Public officers—assessment of property 23

R.

Railroads assessed by State Board of Railroad Assessors 34
Real-estate assessment roll—preparation and delivery of 106
Real-estate—assessment is against the property and is not assessed to the owner 28
value for which year to be deducted in the assessment of banks 43
contracts—schedule 23*h*, personal property statement 58
sale contracts 31
Rental agreements 90
Reserve or emergency funds of fraternal societies exempt 10
Rural credit shares, building and loan association, discussed 48
Refusal to make out personal property statement 84
Rules for valuing property 93

S.

Sale contracts—real estate 31
State debits not taxable to owner 12
State—indebtedness to the state on land contracts may be offset 18
Shares of stock in banks not to be diminished by exempt bank assets 13
foreign corporations owned by a resident of Kansas 51
in domestic corporations 51
schedule 16, personal property statement 44
State Board of Appraisers—interstate or intercounty telegraph, telephone, and pipe-line companies 34
Statutes relating to supervision by Tax Commission 4
Statutory penalties 119
for failure to comply with law 119
Statistical report of county assessor of personal property 76
nontaxable 78
Street and interurban railways—assessment by the Tax Commission 34
School districts—evidence of indebtedness not taxable 12
Storage—property stored while in transit 27
Store fixtures 88
Supervisory and directory power, Tax Commission 4

PAGE

Supreme court decision—manufacturers' product on hand March 1 8
property used exclusively for state, county, municipal, literary, educational, etc., exempt 8
mutual benefit association not exempt 8
invested fund charitable or benevolent association not exempt 8
ownership not the test of exemption 8
indirect use does not entitle property to exemption 9
Masonic Grand Lodge property not exempt 9
Odd Fellows Lodge property not exempt 9
charitable uses if exclusive 9
fraternal beneficiary association property not exempt 9
property used as a literary hall and dormitory exempt while so used, 9
termination of use for excepted purposes 10
bank shares not credits 18
building and loan association stock not credits 18
contingent liabilities mutual life insurance company 18
situs of live stock for taxation 19
cases in relation to contracts 31
assessment of national banks 43
shares of stock, foreign corporation outside state, must be listed in Kansas 52
foreign corporation inside state, not to be listed in Kansas 52

T.

Taxpayer—refuses to make out personal property statement 84
deputy to advise and instruct in filling in statement 86
must have knowledge of assessment as fixed by deputy assessor 86
must himself fill out personal property statement 87
interrogatories to be answered upon Forms 2 and 2*a* 87
Tax-sale certificates owned by a nonresident not taxable unless it has acquired a business situs. 14
Transient personal property—situs for assessment 24
Tax Commission—supervisory and directory powers 4
Telephone and telegraph companies—assessed by State Board of Appraisers if intercounty .. 34
assessment by county assessor if intracounty 34
companies, schedule 23*x*, personal property statement 59
Time deposits for longer period than one year, credit which may be offset by debits 18
one year or less not a credit 18
Townships—evidences of indebtedness not taxable 12

U.

Use of property the test of exemption 8
Use indirect through sale of products will not exempt 9

W.

What property is subject to taxation 6
Warrants issued by state, county, city, township or school districts not taxable 12
Wards, property of—situs for assessment purposes 22
Wheat—situs for assessment March 1 22
stored in elevators, assessment of 68

END OF
TITLE